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7 **THE UNITED STATES DISTRICT COURT**
8 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
9 **SAN JOSE DIVISION**

10 **MITCHELL J. PEARCE, D.C., M.S.,**
11 **L.Ac.,**

12 **Plaintiff,**

13 **vs.**

14 **CAROL ROMEO; JAMES SHARP;**
15 **WILBUR BENNET; VIVIEN HERSH;**
16 **LYDIA ZANE; JOEL PRIMES; R.**
17 **LLYOD FRIESEN, D.C.; MICHAEL**
18 **MARTELLO, D.C.; LLOYD E.**
19 **BOLAND, D.C.; DEBORAH E. PATE,**
20 **D.C.; JOHN BOVEE; ROSA MEI LEE;**
21 **SHARON UFBERG, D.C.; JEFFREY**
22 **STEINHARDT, D.C.; STEPHEN**
23 **FOREMAN, D.C., JACALYN**
24 **BUETTNER, D.C.; CRAIG**
25 **MISSAKIAN, J.D.; JOHN DERONDE,**
26 **D.C.; VIVIAN DAVIS; M. ELIZABETH**
27 **WARE; ROBERT BOURKE; GAYLYN**
28 **MACHADO; DAVID BRUCE LOVE,**
D.C., SUSAN LEVIN; DENINE GUY;
DAVID FULTON; ROBERT YONTS;;
C. BRETT SULLIVAN, D.C.;
WINIFRED BOTHA; RICHARD
ALEXANDER; LAWRENCE MERCER;
PETER BERMAN, Ph.D.; PATRICIA
BRICKMAN; LYNDE SCHEFFER,

Case No. _____

COMPLAINT FOR SPECIAL,
GENERAL, AND PUNITIVE DAMAGES
FOR AND FROM:

- 1) VIOLATION OF CIVIL RIGHTS;
- 2) CONSPIRACY TO VIOLATE CIVIL RIGHTS;
- 3) FAILURE TO ABATE CONSPIRACY TO VIOLATE CIVIL RIGHTS;
- 2) MALICIOUS PROSECUTION
- 3) ASSAULT AND BATTERY
- 4) FALSE ARREST and IMPRISONMENT
- 5) VIOLATION OF CALIFORNIA CIVIL CODE SECTION 52.1
- 6) DAMAGES PURSUANT TO CALIFORNIA CIVIL CODE SECTION 52
- 7) CIVIL VIOLATION OF THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT OF 1970;

AND FOR TREBLING OF DAMAGES
FOR VIOLATION OF THE

**RACKETEER INFLUENCED
D.C.; UNKNOWN PEACE OFFICER;
UNKNOWN CHIROPRACTIC BOARD
OFFICER; and UNKNOWN AG
AGENT - ALL IN THEIR INDIVIDUAL
CAPACITIES and YONTS & FULTON
A LAW FIRM**

**AND CORRUPT
ORGANIZATIONS ACT;**

**AND FOR RECOVERY OF
ATTORNEYS FEES AS
ALLOWED BY 42 U.S.C.
SECTION 1988 AND 18 U.S.C.
1964(c)**

Defendants.

DEMAND FOR JURY TRIAL

Plaintiff alleges:

JURISDICTION AND VENUE

1. Plaintiff alleges a civil action under the Civil Rights Act of 1871, as amended, also known as 42 U.S.C. sections 1983, 1985, 1986, and 1988, hereinafter "section 1983", "section 1985", "section 1986", and "section 1988", respectively. The Civil Rights Act of 1871, as amended authorizes United States District Courts to hear civil actions brought under the act. Plaintiff also alleges an action under Title IX of the Organized Crime Control Act of 1970, Public Law 91-452, 84 Stat. 922, popularly known as the RICO Act and encoded as 18 U.S.C. 1961 et seq. Plaintiff makes this claim under authority of section 1964(c) of said code. 18 U.S.C. 1964(c) authorizes the United States District Courts to hear civil actions brought under this section. Because the State Law claims alleged herein arise out of the same nexus of facts as the federal claims alleged herein, this court has pendente lite jurisdiction over the State Law Claims alleged herein.

2. Venue is proper in the Northern District of California under 28 U.S.C. Section 1391(b)(2) because the substantial portion of claims alleged herein arose within said district. For the RICO claims asserted herein, venue is properly

1 reposed in the Northern District of California under 18 U.S.C. 1965(a) and (b)
2 because the majority of defendants reside or were found within this district at the
3 time the claim arose and because the ends of justice require that the parties not
4 residing within this district be brought before this court.

5 **INTRADISTRICT ASSIGNMENT**

6 3. The bulk of the claims alleged herein arose in the County of Santa
7 Clara, State of California. Plaintiff was injured in his business domiciled in Santa
8 Clara County, State of California. Claims for damages under California Civil
9 Code section 52.1, are to be brought in the county in which the violation of said
10 code occurred. As more fully alleged below, violations of California Civil Code
11 section 52.1 occurred in Santa Clara County.

12 **FACTS COMMON TO ALL CLAIMS**

13 4. In 1981 plaintiff Mitchell J. Pearce, D.C., M.S., L.Ac. ("Dr. Pearce")
14 graduated from Palmer College of Chiropractic. In 1982 California and
15 Massachusetts licensed Dr. Pearce to practice chiropractic. In 1983 Dr. Pearce
16 became certified in Disability Evaluation in Workers Compensation. In 1984 Dr.
17 Pearce became certified in Independent Medical Examination in workers
18 compensation cases, and in 1990 Dr. Pearce became certified in Industrial
19 Disability Evaluation. In 1991, Dr. Pearce was appointed to be a Qualified
20 Medical Evaluator for the State of California Department of Industrial Relations.
21 From 1982 till 1999, Dr. Pearce was engaged in interstate commerce by billing
22 for services to out of state insurance companies and by providing chiropractic
23 services in both Massachusetts and California.

24 5. State Fund Compensation Insurance ("SFIC") was the worker's
25 compensation insurer for a worker's compensation claim that had been filed by
26 Gaylyn Stuart, f.k.a Machado ("Stuart"). Sovy Medved ("Medved"), an insurance
27 adjustor for SFIC referred Stuart to Dr. Pearce for a medical evaluation of her
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1 claimed industrial injury. On August 6, 1991, Gaylyn Machado came to Dr.
 2 Pearce's office for the evaluation. Medved had asked plaintiff to determine if
 3 chiropractic care was appropriate for Stuart's complaints of back pain, leg pain,
 4 numbness, inability to tell when she needed to urinate, and constipation. Stuart
 5 brought, with her, a report of a muscle-strength test performed on July 29, 1991
 6 by David Bruce Love, D.C. ("Love"), her treating chiropractor. This report stated
 7 Stuart had the following strengths in her spinal muscles measured in pounds:

9	Cervical right lateral flexion:	2.2	Lumbar right lateral flexion:	8.9
10	Cervical left rotation:	2.2	Lumbar left rotation:	3.2
11	Cervical right rotation:	2.2	Lumbar right rotation:	5.7
12	Cervical extension:	2.7	Lumbar extension:	5.6
13	Cervical flexion:	2.0	Lumbar flexion:	3.2

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 15 6. An adult with the muscle strength stated in Love's report would be
 16 unable to sit up, stand, walk, demonstrate any trunk range of motion, or lift her
 17 head off a pillow while lying down. Stuart was able to walk, sit, and bend over.
 18 Any chiropractor reading Love's report and observing Stuart would suspect fraud.

19 7. Plaintiff had his female office assistant witness the examination and
 20 audio recorded Stuart's interview and examination responses. Dr. Pearce
 21 dictated a report during his examination. Plaintiff performed a standard
 22 neurological, orthopedic and chiropractic examination of Stuart. The examination
 23 included a digital rectal examination. This examination was necessary to
 24 determine whether Stuart's claimed constipation, urinary difficulties and
 25 numerous back and leg complaints were caused by her industrial injury. The law
 26 required Dr. Pearce to base his opinions on current timely and clinically relevant
 27 examinations. The rectal examination was required to diagnose whether her
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1 claimed back injury or her chiropractic treatment had any causal relationship to
2 her claimed constipation and urinary difficulties. Thus, Dr. Pearce had to perform
3 the rectal examination to perform his duty to truthfully report his findings and
4 opinions as a person certified to make industrial injury examinations.

5 8. Dr. Pearce observed several findings that indicated malingering,
6 hysteria, and fictitious illness. For example, Stuart refused to squat more than
7 half way toward a sitting posture claiming she would fall down, yet sat and got up
8 from sitting without difficulty. During orthopedic testing, she was positive for tests
9 for which, if she was truly positive for those tests, she would have been scarcely
10 able to walk, yet she moved about Dr. Pearce's office with no difficulty or sign of
11 distress. She claimed she could not bend over past a few degrees, yet, when
12 she thought Dr. Pearce was not looking, she bent over in a fluid motion and
13 picked up a piece of clothing from the floor. Dr. Pearce found that she had no
14 physiological evidence of pain when she was claiming great pain.

15 9. The day after he examined Stuart, August 7, 1991, Dr. Pearce
16 reviewed Stuart's medical records. Dr. Pearce consulted an urologist about
17 Stuart's previous urologic studies and Pearce's examination findings and planned
18 to consult a neurologist about these same findings before completing his report.
19 Before consulting a neurologist, Pearce spoke by telephone with Sovy Medved
20 ("Medved"), the adjuster for SCIF. Medved had requested the examination of
21 Stuart. Dr. Pearce reported to Medved that he did not think that Stuart's
22 symptoms were caused by an industrial injury, but likely were psychosomatic
23 complaints (i.e., physical complaints caused by a neurosis). For that reason, Dr.
24 Pearce stated that he did not think that Stuart's complaints could be treated by
25 chiropractic treatment.

26 10. In the August 7, 1991 phone call with Medved, Dr. Pearce also
27 reported to Medved that he suspected that Stuart and Love were engaging in an
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1 insurance fraud. Unknown to Dr. Pearce, the State Board of Chiropractic
2 Examiners ("Chiropractic Board") had charged Love with five counts of
3 incompetence and insurance fraud.

4 11. On or before August 19, 1991, Medved communicated to Love and
5 Stuart that SCIF intended to dispute that there was an injury based on the
6 findings of Dr. Pearce that Stuart and Love were engaging in an insurance fraud.

7 12. On or about August 1991, Stuart and Love agreed that Stuart would
8 claim that Dr. Pearce had committed a sexual battery on her when Dr. Pearce
9 had performed the rectal examination. They did this to discredit the report of Dr.
10 Pearce. They agreed that Stuart would report to the Chiropractic Board that Dr.
11 Pearce had committed a sexual battery on Stuart. The purpose of Stuart was to
12 support her claim for worker's compensation case. The purpose of Love was to
13 defend himself against another charge by the Chiropractic Board of fraud and
14 incompetence.

15 13. Susan Levin ("Levin") was the attorney for Stuart's workers'
16 compensation claim. On or about August 1991, Levin became aware that Dr.
17 Pearce suspected that Stuart and Love were engaged in an insurance fraud. On
18 or about August 1991, Stuart and Levin agreed that Levin would support Stuart's
19 claim that Dr. Pearce had committed a sexual battery on Stuart. To carry out this
20 agreement, Levin advised Stuart to report to SCIF and to the Chiropractic Board
21 that Dr. Pearce had committed a sexual battery on her. The purpose of Stuart
22 and Levin was to recover money on Stuart's worker's compensation claim that
23 would otherwise have been lost.

24 14. Levin or Love referred Stuart to Denine Guy ("Guy") of the Law Firm
25 of Yonts & Fulton. Levin did this to gain additional support for Stuart's claim that
26 plaintiff had sexually battered Stuart. Guy and her law firm agreed with Levin,
27 Love and Stuart to file a lawsuit against Dr. Pearce for sexual battery. The
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1 purpose of these lawyers was to recover damages against Dr. Pearce. The
2 purpose of Levin and Stuart was to recover a worker's compensation claim and
3 to discredit Dr. Pearce's diagnosis of Stuart. The purpose of Stuart was to
4 discredit Dr. Pearce and to recover damages from him.

5 15. In August 1991, to carry out the agreements Stuart made with Love,
6 Levin, Guy, Fulton, Yonts, Yonts & Fulton, Stuart and Love wrote a two page
7 statement in which Stuart falsely claimed that she had been vaginally and rectally
8 penetrated with a stick multiple times by Dr. Pearce and had suffered injury and
9 pain as a result.

10 16. Levin, Guy, Fulton, Yonts, and Yonts & Fulton and Love agreed that
11 Stuart should report her claim that Dr. Pearce had sexually battered her by
12 reporting that she had been sexually battered to the San Jose Police Department.
13 On September 5, 1991, Guy made the report through the offices of the Yonts &
14 Fulton Law Firm. Guy, Fulton, and Yonts assisted Stuart and Love by having
15 Guy make the report for Stuart and by reporting that Love was a witness willing
16 to testify for the Stuart. The purpose of making a report to the police was to
17 corroborate Stuart's story that she had been the victim of a sexual battery. The
18 San Jose Police Department conducted an investigation which resulted in the
19 case being closed without prosecution.

20 17. Levin, Guy, Fulton, and Yonts, and the Yonts & Fulton Law Firm
21 advised Stuart to make a report of sexual battery to the Chiropractic Board.
22 These lawyers wanted to deprive Pearce of the ability to defend against the
23 lawsuit they had decided the Yonts & Fulton Law Firm would file against Dr.
24 Pearce by making the complaint to the Chiropractic Board. On or before October
25 4, 1991, Guy prepared a complaint for Stuart to file with to the Chiropractic
26 Board. The report stated that Dr. Pearce had committed a sexual battery on her.
27 James Sharp ("Sharp") was an investigator for the Chiropractic Board. The
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1 Chiropractic Board assigned Sharp to investigate Stuart's claim. Sharp
2 interviewed Stuart at the offices of Yonts & Fulton. Guy was present and advised
3 Stuart during the interview.

4 18. As agreed among Levin, Guy, Fulton, Yonts, and Yonts & Fulton,
5 these attorneys commenced a lawsuit against Pearce on October 4, 1991 by
6 writing him a notice of intent to sue pursuant to California Code of Civil Procedure
7 section 364. On January 23, 1992, Denine Guy filed for the Yonts & Fulton Law
8 Firm, *Machado v. Pearce* in Santa Clara County Superior Court against Pearce.
9 The complaint claimed Pearce had sexually battered Machado with a stick by
10 penetrating her vagina and rectum multiple times in front of his female office
11 assistant.

12 19. The California State Board of Chiropractic Examiners ("Chiropractic
13 Board") consists of members appointed to four year terms. Beginning in 1992,
14 members consisted of R. Lloyd Freisen, D.C., appointed 1990; Michael Martello,
15 D.C., appointed in 1990; Lloyd E. Boland, D.C. appointed in 1992; Deborah
16 Marie Pate, D.C. appointed in 1992; John Bovee, appointed in 1993; Rosa Marie
17 Lee, appointed in 1993; Sharon Ufberg, D.C, appointed in 1994; Jeffrey
18 Steinhardt, D.C., appointed in 1994; stephen Feman, D.C., appointed in 1995;
19 Lloyd E. Boland, D.C, appointed in 1996; Jacalyn Buettner, D.C., appointed in
20 1996; Craif Missakian, J.D., appointed in 1997; and John DeRonde, Jr., J.D.,
21 appointed in 1997. Drs. Ufberg and Steinhardt were re-appointed in 1998.
22 When referred to collectively, these parties are "Board Members."

23 20. The Chiropractic Board Members, Deputy Attorney General Romeo
24 ("Romeo"), Board Executive Director Vivian Davis ("Davis"), and its investigator,
25 James Sharp ("Sharp"), (collectively "Board Officers") agreed that plaintiff should
26 be prosecuted for having performed a rectal examination on Stuart and for having
27 made a diagnosis of her psychosomatic condition. They agreed even though
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1 they knew that Dr. Pearce's diagnosis of Stuart's psychosomatic condition was
2 valid and knew that this diagnosis and performance of the rectal examination was
3 necessary to properly diagnose the symptoms and complaints Stuart presented.
4 They agreed to prosecute plaintiff because of the political view held by the
5 Chiropractic Board and the Attorney General.

6 21. The Chiropractic Board members held that chiropractors should not
7 perform rectal examinations or make psychological diagnoses. This political view
8 was against the law. The law was that it was within the scope of practice for a
9 chiropractor to perform a rectal examination and to make psychological
10 diagnoses. In 1923 the California State Board of Chiropractic Examiners
11 ("Chiropractic Board") was formed pursuant to the 1923 Chiropractic Initiative Act.
12 In 1948, the people of the State of California voted to pass the 1948 Initiative Act.
13 The 1948 Act Initiative Act mandated that chiropractors learn psychiatry to be
14 able to make psychological diagnoses as part of their care of patients. One
15 purpose of the 1948 law was that chiropractors should have a duty to assess
16 psychosomatic complaints so that patients would not be subjected to
17 unnecessary physical treatment. In 1978, the Legislature, in implementing the
18 1978 Initiative Act defined a chiropractor as "one who practices the healing arts
19 without the use of drugs or surgery."

20 22. Despite the law, the Chiropractic Board members held that the scope
21 of chiropractic should not include rectal examinations or psychological diagnoses.
22 This view manifested in 1981, when the Chiropractic Board changed the
23 educational regulations for the education of chiropractors. The regulations
24 dispensed with requiring student chiropractors to perform rectal examinations on
25 live persons. As a result of the watered down educational requirements, many
26 chiropractors who became licensed after 1981 did not have sufficient training to
27 be able to safely perform and interpret the results of rectal examinations. Rather
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1 than remedy this educational deficiency, the Chiropractic Board and its members
2 embarked on a campaign to impose its political view that chiropractors should not
3 perform rectal examinations and make psychological diagnoses. The
4 Chiropractic Board carried out this campaign by prosecuting disciplinary charges
5 against chiropractors who did rectal examinations or internal coccygeal
6 adjustments (which necessitate a digital rectal insertion). Joel Primes, the
7 Chiropractic Board counsel appointed by the AG, carried out a campaign to
8 impose this political view of the Chiropractic Board in presentations at re-
9 licensing seminars. During these seminars, Primes boasted about how many
10 chiropractors he had prosecuted for doing internal coccygeal adjustments.

11 23. The California's Attorney General's Office ("AG") also held the
12 political view that chiropractors should not perform rectal examinations or make
13 psychological diagnoses. In 1989, the AG brought lawsuits on behalf of the
14 California Medical Board and the California Physical Therapists to restrict the
15 scope of the practice of chiropractic to not include physical therapy procedures
16 and certain gynecological procedures. Although these cases were unsuccessful,
17 the AG and Chiropractic Board Members continued to hold the view that the
18 scope of the practice of chiropractic should not include rectal examinations or
19 diagnoses of mental diseases or disorders even though the board had previously
20 stated in open letters to the public that chiropractors are required to examine and
21 diagnose without limitation as to the examinations performed and diagnoses
22 arrived at. California Business and Professions Code section 2038 defines
23 diagnosis as "any undertaking by any method, device, or procedure whatsoever,
24 and whether gratuitous or not, to ascertain or establish whether a person is
25 suffering from any physical or mental disorder."

26 24. When Stuart made her complaint to the Chiropractic Board on
27 October 4, 1991 and in later interviews with Sharp, the Chiropractic Board, the
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1 Chiropractic Officers, and the AG seized the opportunity that Stuart's complaint
2 presented to impose their view of what was the proper scope of chiropractic
3 practice.

4 25. The Chiropractic Board, the Chiropractic Board Members, and the AG
5 agreed to prosecute Stuart's complaint, not for the legitimate purpose of enforcing
6 their duties, but to promulgate their view that it was improper for chiropractors to
7 perform rectal examinations or make psychological diagnoses. Because their
8 purpose was to proselytize their political view, they refused to consider the
9 evidence that Dr. Pearce was innocent of having committed a sexual battery on
10 Stuart.

11 26. The Chiropractic Board, the Chiropractic Members, and the AG
12 refused to consider the overwhelming evidence that Love and Stuart had been
13 engaged in an insurance fraud and that they had made the complaint of sexual
14 battery to divert attention from their fraud. Any chiropractor who read Love's
15 strength test report had to suspect that it was a fraud. The Chiropractic Board
16 Members were chiropractors. Likewise, attorneys experienced in workers
17 compensation, medical fraud or disciplining doctors, would know that Love's
18 strength test report was evidence of fraud.

19 27. The Chiropractic Board had pending five counts of insurance fraud and
20 malpractice against Love. Rather than consider whether Love and Stuart had
21 made a complaint to divert attention from their insurance fraud, the Chiropractic
22 Board dismissed its five counts of insurance fraud and malpractice against Love.

23 Love then testified against Dr. Pearce as a witness for Stuart in the lawsuit
24 Stuart first brought against Pearce.

25 28. The overwhelming evidence that Dr. Pearce had not committed a
26 sexual battery included evidence of Stuart's physicians. At her instance, Vincent
27 Frank Nola, M.D., her gynecologist, and Alfred Hurwitz M.D., her
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1 gastroenterologist, examined Machado for evidence that she had been sexually
2 battered by Dr. Pearce. Stuart claimed that Dr. Pearce had penetrated her
3 rectum and vagina several times with a stick and this caused her injury. Stuart
4 asked Dr. Nola and Dr. Hurwitz to examine her to support her claim. The
5 physicians found no evidence to support her claim.

6 29. Because the Chiropractic Board Members were determined to
7 impose their political view, the Board members agreed, through Davis and Sharp,
8 to hire defendant C. Brett Sullivan ("Sullivan"), a chiropractor, to write a report
9 claiming that plaintiff's diagnosis of Stuart and his rectal examination of her had
10 been improper. They chose Sullivan because they knew Sullivan believed that
11 the scope of chiropractic care precluded rectal examinations or psychological
12 diagnoses. Sullivan advocated this view because he had not been trained to do
13 either procedure on live human beings, did not do either procedure, was not
14 competent to do either, and was not competent to express an opinion on how the
15 procedures should be performed.

16 30. The procedure of the Chiropractic Board called for a chiropractor to
17 write a report on which the Chiropractic Board decided whether to charge. On
18 or about March 29, 1992, Sullivan wrote a report on which the charge against Dr.
19 Pearce was based. In his charging report, Sullivan claimed the diagnosis and
20 rectal examination of Stuart were beyond the standard of practice of chiropractic
21 care. Sullivan stated in his report that a rectal examination and psychological
22 assessment were improper under any circumstances. These statements
23 revealed that Sullivan had based his opinion on a view that was against the law
24 and he was, therefore, incompetent to testify on the standard of care. Sullivan
25 submitted the charging report to the Chiropractic Board. The Chiropractic Board
26 members, acting through its staff, read the report and knew that it revealed that
27 Sullivan was incompetent to state an opinion on the standard of care. The
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1 Chiropractic Board Members, either directly or through its staff, instructed
2 Sullivan to delete the statements that revealed that he was incompetent.
3 Thereafter, Sullivan submitted another report that expurgated the statements that
4 revealed his incompetence. This report was back-dated to make it appear that
5 it had been the original charging report.

6 31. To cover up the fabrication of the charging report, the Chiropractic
7 Board Officers agreed to prevent Dr. Pearce from obtaining a copy of Sullivan's
8 original, unexpurgated report. The Chiropractic Board officers concealed from
9 Dr. Pearce that Sullivan and the Chiropractic Board had fabricated the charging
10 report to make it appear that Sullivan was competent to state an opinion on Dr.
11 Pearce's examination of Stuart. Dr. Pearce was not able to obtain a copy of the
12 unexpurgated report until four years later, after the Chiropractic Board had
13 revoked his license based on the fabricated report. It was only after his license
14 had been revoked that Dr. Pearce discovered the existence of the original report.
15 At some point during this time, M. Elizabeth Ware became Executive Director of
16 the Chiropractic Board. At that point, she became a member of "Board Officers"
17 identified herein.

18 32. On August 13, 1993, the Santa Clara Superior court entered
19 judgment *nunc pro tunc* in favor of Dr. Pearce in *Machado v. Pearce* and
20 awarded Pearce \$18,696.08 in costs. Guy, Levin, Fulton, Yonts, and Yonts &
21 Fulton decided to use the Chiropractic Board to defend them from liability for what
22 they had done to Dr. Pearce. They believed that if the Chiropractic Board found
23 that Dr. Pearce had committed a sexual battery on their client, this would
24 establish that there had been probable cause to have filed and prosecuted the
25 lawsuit for damages against Dr. Pearce. To carry out this scheme, the attorneys
26 solicited the aid of Richard Alexander ("Alexander").

27 33. Alexander had law offices in San Jose, California. Alexander had a
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1 reputation for representing women who claimed to be sexually abused. After
2 consulting with Guy, Levin, and Fulton, Alexander agreed that he would seek to
3 recover damages from Dr. Pearce by publicizing in the newspapers that Dr.
4 Pearce had committed a sexual battery on Stuart and by filing a lawsuit against
5 Pearce alleging the same claims. Based on his experience in suing others,
6 Alexander calculated that this publicity would attract other women to claim that
7 Dr. Pearce had sexually abused them. Alexander and Stuart's attorneys, Guy,
8 Levin, Fulton, Yonts, and Yonts & Fulton agreed that Alexander would claim that
9 Dr. Pearce had committed a sexual battery on Stuart despite the jury having
10 found in Stuart's lawsuit against Dr. Pearce that he had not committed a sexual
11 battery on her. They agreed that Alexander would claim that Dr. Pearce had
12 intimidated Medved, the worker's compensation insurance adjustor, into not
13 revealing a "confession" to Medved that Pearce had sexually battered Stuart.
14 The also agreed that Alexander would state these claims in writing the
15 Chiropractic Board. None of these attorneys ever asked Medved if Pearce had
16 made such a confession. Pearce never made such a confession and Medved
17 has written affidavits stating Pearce never made any such confession.

18 34. In furtherance of the agreement, on or about November 9, 1994,
19 Alexander mailed a letter to Romeo, the Deputy AG representing the Chiropractic
20 Board. In this letter, Alexander claimed that Dr. Pearce had confessed to Medved
21 that he had sexually battered Stuart and intimidated Medved to lie for him in
22 Stuart's lawsuit, *Machado v. Pearce*, against Dr. Pearce. In the letter, Alexander
23 also claimed that Pearce's wife had charged Pearce with attempted murder, that
24 Pearce liked rough sex, and was a mean person. The purpose of the letter was
25 to cause Romeo to pursue the charge against Dr. Pearce despite the evidence
26 that had come out in Stuart's trial against Dr. Pearce that Dr. Pearce had not
27 done what Stuart claimed.

1 35. Alexander and Sharp agreed to solicit reporter Scott Winokur to plant
2 an article in the San Francisco Examiner that Pearce was a sexual predator who
3 had sexually battered Stuart and then covered up his crime by intimidating
4 Medved. On June 5, and June 12, 1995, Alexander utilized the U.S. mails to
5 send letters and drafts of his complaint for Stuart against Pearce, Medved, and
6 State Compensation Insurance Fund to Scott Winokur. In the complaint and
7 letters, Alexander alleged Pearce, Medved, and State Compensation Insurance
8 Fund had an ongoing conspiracy to defraud workers of their compensation
9 benefits, that State Compensation Insurance Fund knew Pearce was a sexual
10 predator and had a deal with him where, in exchange for his defrauding workers'
11 compensation claimants on their behalf, they would cover up his sexually
12 battering the claimants. In his letters to Winokur, Alexander stated he had
13 "retained" one of Dr. Pearce's expert witnesses in the upcoming Chiropractic
14 Board hearings on his license to change his testimony from what he had testified
15 to in *Machado v. Pearce*.

16 36. On June 15, 1995, the article was published on the first page of the
17 San Francisco Examiner under the title, "Suit Says Insurer Helped Doctor to
18 Hide Sex Attack". The article featured a picture of Stuart and Levin together
19 and reported all of Alexander's claims. This newspaper had a circulation of about
20 one-half million. Alexander and Sharp agreed that Alexander should refer any
21 inquiries concerning the claims in the article to Sharp. The article had statements
22 attributed to Stuart, Levin, and Romeo.

23 37. The article reported all Alexander's quotations from the report of Dr.
24 Sidle. In the article, Stuart was attributed as having said, "That man (Pearce)
25 took my dignity - everything from me - I can't stand telling anyone how dirty it
26 was;" "Can you ever fix me? No. I'll have to live with it the rest of my life." Stuart
27 knew these statements were false and knew her doctors, after examining her,
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1 could not support her claims. This was known to Stuart, Romeo, Levin, Love,
2 Guy, Fulton, Yonts, Yonts & Fulton, Jon Stuart, and Alexander.

3 38. In the article in the Examiner, it was attributed to Romeo that what Dr.
4 Pearce had done was against the law and appeared to be a sexual battery. At
5 the time, Romeo knew that it was lawful for Dr. Pearce to have done a rectal
6 examination on Stuart and it was appropriate to assist in determining whether
7 Stuart's complaints were caused by an industrial accident. Romeo also knew that
8 Dr. Pearce had conducted the rectal examination to determine whether Stuart's
9 complaints could have been caused by an industrial accident. By intentionally
10 omitting to state that it was lawful and appropriate for Dr. Pearce to have
11 conducted a rectal examination of Stuart to diagnose whether the complaints of
12 Stuart were caused by an industrial accident, Romeo gave the false impression
13 that it was unlawful sexual battery under any circumstances for Dr. Pearce to
14 have done a rectal examination on Stuart. She thereby publicized and reinforced
15 the political view held by the Chiropractic Board that chiropractors should not
16 have perform rectal examinations under any circumstances.

17 39. The Examiner article had statements attributed to Levin. Levin
18 appeared in a picture beside Stuart. Levin said that she had never seen such a
19 case as the one against Dr. Pearce. At the time Levin made this statement, she
20 knew that Stuart and Love had made a report that indicated that they were
21 perpetrating an insurance fraud. Levin also knew that Stuart's physicians
22 contradicted what Stuart claimed. Stuart's gynecologist later testified at the
23 Chiropractic Board hearing, on April 30, 1996, that Dr. Pearce could not have
24 done what Stuart claimed. Levin also knew that as the attorney for Stuart's
25 worker's compensation case, she was prosecuting a fraudulent claim. Despite
26 this knowledge, Levin stated what she knew was false to discredit the report of
27 Dr. Pearce and to cover up that she had helped Stuart commit workers'
28

1 compensation fraud.

2 40. On July 5, 1995, another article was printed in the San Jose Mercury
3 News under the heading, "Doctor, 2 Others Sued in Sex Case". This article
4 restated Alexander's claims.

5 41. Starting when Dr. Pearce received service of the Chiropractic
6 Board's accusation against him on or about the middle of August 1993, and
7 continuing through August 1995, Pearce implored Romeo and Davis to receive
8 the evidence that had been adduced in *Machado v. Pearce*. Until August 21,
9 1995, Romeo rebuffed Pearce's entreaties. On August 21, 1995, Romeo
10 presented to Pearce's attorney to review the evidence in *Machado v. Pearce*.
11 On that day, Romeo also informed Pearce's attorney that she would to be calling
12 Sovy Medved as a witness to testify against Pearce. She admitted to Dr.
13 Pearce's attorney that Medved was not reliable as a witness for such a purpose.
14

15 42. On August 31, 1995, Romeo wrote a letter to Administrative Law
16 Judge Lew, the Presiding Judge, claiming that Dr. Pearce had been stalking
17 witnesses. Romeo did not inform Dr. Pearce that she had sent a letter and Dr.
18 Pearce did not know that Romeo had sent a letter to the administrative law judge.
19 Romeo's claims to Lew were false. Romeo asked for an order that a peace
20 officer be allowed to search Dr. Pearce before each session of hearing. Lydia
21 Zane assisted Romeo in this endeavor. Judge Lew refused to order Dr. Pearce
22 searched. Instead, Judge Lew ordered that a peace officer could be present.

23 43. On September 7, 1995, the Chiropractic Board began the hearing to
24 revoke Dr. Pearce's license. On the first day of hearing, Romeo stated to the
25 Administrative Law Judge who was hearing the charge, that Romeo had authority
26 from Judge Lew, the Presiding Law Judge, to have plaintiff searched. Based on
27 her fabrication that Judge Lew had authorized the searches, Romeo had Dr.
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1 Pearce searched by Sharp with the assistance of the peace officer (identified in
2 caption and herein as "Unknown Peace Officer") upon entering the hearing room
3 for the first two weeks of trial. These illegal searches occurred in front of
4 Administrative Law Judge Ruth Astle. It appeared to Judge Astle that Judge Lew
5 must have ordered the searches for a reason. Dr. Pearce was the only person
6 who Romeo ordered searched. The implication of these searches was that Dr.
7 Pearce posed a threat to the witnesses and courtroom personnel. This
8 implication supported the theory advanced by the prosecution that Dr. Pearce
9 had treated Stuart and the other women who testified violently. By ordering these
10 searches in front of the Administrative Law Judge, Romeo fabricated evidence
11 that plaintiff had intimidated Stuart and was a danger to everyone in the hearing
12 room.

13 44. On September 7 - 9, 1995, the first three days of the hearing, these
14 searches consisted of pat searches of plaintiff by Sharp. Sharp made a point of
15 holding the testicles of Dr. Pearce while doing these searches. Sharp grinned up
16 at Pearce as he did this. It appeared to Pearce that Sharp did this to show his
17 contempt for what Dr. Pearce had allegedly done to women victims. Dr. Pearce
18 was humiliated. His attorney protested that these searches were prejudicial. In
19 response, the pat down searches were replaced with searches by a hand held
20 metal detector. Not until the end of the first two weeks of trial did the searches
21 stop. After that time, Astle ordered that the police officers be present to guard
22 Pearce throughout the trial. By conducting these searches to show their
23 contempt for Dr. Pearce, Romeo and Sharp implied by their conduct that they
24 knew Dr. Pearce deserved to lose his license and that ALJ Astle should be
25 concerned that if he was not found guilty of something for which his license could
26 be revoked, he would be a danger to the public, and regardless of whether his
27 license was revoked, he was a danger to ALJ Astle. Astle ordered that Pearce
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1 be guarded during the trial, Astle indicating that Romeo's plan to prejudice Astle
2 had succeeded.

3 45. The newspaper publicity attracted persons to come forward with
4 complaints against Dr. Pearce. One the persons who came forward was Lynde
5 Scheffer. In 1991 Scheffer came to Dr. Pearce for an examination to support her
6 workers' compensation claim. Dr. Pearce diagnosed her claim as a Thoracic
7 Outlet Syndrome, a diagnosis not covered by worker's compensation because
8 the origin of such a disorder could not be causally related to her job duties.
9 Scheffer did not disclose what Dr. Pearce had diagnosed to the worker's
10 compensation carrier. By concealing Dr. Pearce's diagnosis, she received a
11 compensation award from a workers' compensation carrier.

12 46. After reading the newspaper articles planted by Alexander, Scheffer
13 reported to the Chiropractic Board that Dr. Pearce, while conducting an
14 examination, had sexually molested Julie Snider, a female chiropractor, when
15 Snider was a student at Palmer College of Chiropractic. This statement was
16 false. In fact, Dr. Pearce had never met Julie Snider as a student and had never
17 examined her. In the fall of 1995, Scheffer was interviewed by Sharp. By then
18 it had come to light that Dr. Pearce had never examined Snider. Sharp advised
19 Scheffer to change her story. Scheffer then claimed that in 1989 Dr. Pearce had
20 conducted a breast examination on her that had not been indicated. This claim
21 was false and Scheffer knew it.

22 47. Patricia Brickman ("Brickman") was another person who the
23 newspaper publicity had attracted to make a complaint. On or about July 1995,
24 she contacted Alexander, who referred her to Sharp. She was interviewed by
25 Sharp. She claimed that plaintiff had conducted a breast examination and placed
26 a finger in her anus suddenly for no apparent reason. In fact, in 1984 Brickman
27 had seen Dr. Pearce about an injury to her tailbone and other complaints. She
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1 had x-rays taken. She did not pay the bill for the x-rays and Dr. Pearce sent the
2 bill to collection. In retaliation, she complained to the Chiropractic Board that Dr.
3 Pearce had sexually assaulted her. The Chiropractic Board rejected her
4 complaint. However, after Sharp interviewed her, the Chiropractic Board decided
5 to use her complaint to support its view that tailbone adjustments through the
6 anus were improper.

7 48. Lezlie Morrow ("Morrow") was another person Alexander attracted
8 by the newspaper publicity. On or about the summer of 1995, Morrow contacted
9 Alexander, who referred her to Sharp. Morrow had been gang raped twice and
10 resented men. After Sharp interviewed Morrow, she claimed that in 1987 that she
11 had been taught to do a breast examination by Dr. Pearce and that she had
12 never had a breast examination before that time.

13 49. Neither Sharp nor any other defendant investigated to verify the truth
14 of Scheffer's, Brickman's, or Morrow's claims. Instead, Sharp prepared a report
15 in which he omitted the fact that Scheffer had changed her story. In November
16 1995, he mailed his report to the Chiropractic Board and Carol Romeo. The
17 Chiropractic Board utilized Sharp's report as the charging report in a second
18 accusation against Pearce. The Chiropractic Board served Sharp's report by
19 mail as a supplemental accusation against Pearce on December 19, 1995.

20 50. In December 1995, a demurrer was sustained against Alexander's
21 lawsuit against Pearce. In February 1996, Alexander persuaded Thomas Hogan,
22 Dr. Pearce's attorney in that matter, to waive costs and file a dismissal of the
23 action memorializing Alexander's agreement with Hogan. Hogan's agreement
24 violated his contract to defend Dr. Pearce in that action. The effect of the
25 dismissal was to preclude Dr. Pearce from prosecuting a case for malicious
26 prosecution against Alexander. Dr. Pearce was unaware of Alexander's deal with
27 Hogan.

1 51. In April 1996, Romeo called Dr. Pearce's attorney and claimed that
2 Scheffer had been threatened with murder at the request of Dr. Pearce. This
3 claim was false.

4 52. The hearing on Scheffer's, Brickman's and Morrow's claims against
5 Pearce began on April 29, 1996. In the hearing, Romeo again claimed that
6 Pearce had threatened to murder Scheffer. Romeo dropped that claim only after
7 Pearce's attorney, Louis Castro, offered to prove Romeo was not telling the truth.
8

9 53. Brickman testified at the hearing that that the finger Dr. Pearce had
10 placed in her anus was done when Dr. Pearce had done an adjustment and the
11 adjustment had been successful in treating her. This information had been
12 available to Sharp, but he had not included it in the supplemental charging report.

13 54. Scheffer testified at the hearing that she did not know if Dr. Pearce
14 had performed a breast examination on her because she could not remember him
15 performing a breast examination on her. In fact, Dr. Pearce had never performed
16 a breast examination on her.

17 55. Morrow testified that after consulting her diary and the dates in which
18 she was in other trials, that she could not have been taught a breast examination
19 by Dr. Pearce, or anyone else, before 1987. She further testified that her history
20 and examination lasted less than fifteen minutes. Dr. Pearce had, in fact
21 examined Morrow's jaw, neck, back, lungs, and knee in 1983 in an examination,
22 with x-rays, that lasted more than an hour.

23 56. At the hearing, Dr. Pearce subpoenaed the board's investigator's file
24 by serving the subpoena on Sharp. Both Sharp and the Chiropractic Board
25 Officers refused to honor the subpoena and refused to turn over Sharp's file. (By
26 this time, Board Officers included M. Elizabeth Ware as Executive Director,
27 Vivian Davis having left the position.)
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1 57. In November 1996, the Chiropractic Board issued its decision
2 revoking Dr. Pearce's chiropractic license. In the decision, Chiropractic Board
3 exonerated Plaintiff of sexual misconduct, but found him guilty of having practiced
4 outside of the standard of care by making his diagnosis of Stuart's physical and
5 mental condition and for having performed a rectal examination of her. The
6 Chiropractic Board also based its decision to revoke Plaintiff's chiropractic
7 license on the grounds that Plaintiff had not obtained proper consent for his
8 examinations and had an attitude that they did not like. California Business and
9 Professions Code section 475(c) did not allow the denial, suspension, or
10 revocation of a health care providers' license on the ground of his having an
11 attitude.

12 58. Dr. Pearce filed a petition for writ of administrative mandate on the
13 grounds that the revocation was improper because he had obeyed the law in
14 everything he had done and the chiropractic board had violated his rights to due
15 process because it had not given him notice that his attitude or whether consent
16 was properly obtained were issues he had to defend against. In late February or
17 early March of 1997, Dr. Pearce obtained Sullivan's original report and the letters
18 Alexander had written to Scott Winokur of the San Francisco Examiner. In July
19 1997, a hearing was held in Santa Clara Superior Court on Dr. Pearce's petition
20 to review the board's decision. The court ordered the revocation of Dr. Pearce's
21 license be set aside. The court remanded the matter back to Chiropractic Board
22 for hearing evidence on why Sullivan's original charging report had been
23 suppressed, why the Board did not allow full cross-examination of Morrow and
24 why Alexander and Sharp had conspired together to plant the San Francisco
25 Examiner newspaper article. The court also ordered the Chiropractic Board to
26 reconsider its decision in light of the due process violations Dr. Pearce had stated
27 in his petition.

1 59. From March 2, through March 13, 1998, the Chiropractic Board held
2 the remand hearing that had been ordered by the Superior Court. Morrow was
3 called to testify. Morrow testified that she had been approached by personnel
4 from the AG's office who told her to change her testimony. (This person is
5 identified in the caption and herein as defendant "Unknown AG Agent.") As the
6 AG had requested, she changed her testimony to support the AG's claim that Dr.
7 Pearce had performed a breast examination on her and fondled her breasts in
8 1983. This testimony was false.

9 60. On March 3, 1998, Sullivan testified he had given the original
10 unexpurgated report of March 29, 1993 directly to Sharp and had been instructed
11 to change his report by a staff person at the Chiropractic Board. The identity of
12 this staff person is not known to plaintiff, and therefore, plaintiff identifies this
13 person in this complaint as Unknown Chiropractic Board Officer.

14 61. On March 4, 1998, Sharp testified that he had never seen the
15 original, unexpurgated Sullivan report. The board's investigative file was again
16 subpoenaed by subpoenaing Sharp. Sharp evaded the subpoena, and when his
17 evasion eventually failed, reported through his testimony and Robert Bourke's,
18 his superior's, testimony that he had destroyed his file between receiving the first
19 and second subpoenas.

20 62. On March 6, 1998, Alexander testified at the Chiropractic Board
21 hearing. In his testimony, Alexander admitted he had filed his lawsuit against Dr.
22 Pearce without probable cause and without having researched the law to
23 determine if the suit was legally tenable.

24 63. Nevertheless, Alexander testified that Dr. Pearce sued him for
25 defamation and malicious prosecution, without probable cause, to defraud the
26 chiropractic board by pressuring Alexander into giving false testimony. At the
27 time Alexander gave this testimony, he knew this testimony was false. The truth
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1 is that Alexander had defamed and maliciously prosecuted Dr. Pearce and he
2 knew it. Alexander further testified that Dr. Pearce had intimidated Medved into
3 producing affidavits which stated Alexander's claims to Winokur and in his lawsuit
4 against Dr. Pearce were false. On April 20, 2001, Alexander admitted under oath
5 that neither he nor anyone on his behalf had attempted to contact Medved to
6 determine if Alexander's testimony before the Chiropractic Board was accurate.
7 In fact, Alexander's testimony concerning Medved before the Chiropractic Board
8 was false, and Alexander knew when he made the testimony that he had no
9 factual basis for this testimony. In May 2001, Alexander authorized his attorney,
10 Ed Cullen, to state that the publication of his claims to Winokur was a "significant
11 injustice to Dr. Pearce".

12 64. In addition to testifying falsely at the March 1998 hearing, Alexander
13 stated to Romeo that Romeo and Alexander had "got" Dr. Pearce on Medved's
14 claims as Alexander had first falsely published them and coached Romeo in how
15 to question him. Romeo then followed his advice in questioning him. Alexander
16 committed his perjury before the Chiropractic Board and coached Romeo in how
17 to elicit his perjury for two reasons. First, he wanted to fulfill the agreement he
18 had made with Guy, Levin, Fulton, Yonts, and Yonts & Fulton to have Dr. Pearce
19 successfully prosecuted by the Chiropractic Board. Second, he wanted to deter
20 Dr. Pearce from prosecuting his lawsuits against Alexander for defamation and
21 malicious prosecution.

22 65. On March 5, 1998, Romeo again claimed in writing to PLJ Lew that
23 plaintiff intimidated a witness during the hearing. Romeo knew when she made
24 her request that she was not telling the truth in her request. Lydia Zane assisted
25 Romeo in preparing this request. In response to Romeo's request, PLJ Lew
26 ordered that a peace officer be present when plaintiff was in the hearing room.

27 66. On September 2, 1998, Chiropractic Board Members again revoked
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1 Dr. Pearce's chiropractic license on the same grounds they had previously
2 revoked it.

3 67. In January 1999, Dr. Pearce filed a petition for a writ of mandate from
4 the Santa Clara County Superior Court to review the Chiropractic Board's
5 revocation of his license. The petition pleaded that the Board failed to properly
6 determine the credibility of witnesses, that Dr. Pearce had been denied due
7 process by the board finding him guilty of things, such as not obtaining consent
8 and having a bad attitude, not charged; that Dr. Pearce had obeyed the law and
9 practiced within the standard of care when examining and diagnosing Stuart; that
10 the Chiropractic Board had raised the penalty in violation of due process; and the
11 Chiropractic Board had punished him for dating a patient's relative even though
12 there is no law or regulation to the support such a punishment and making such
13 a punishment is in violation of the Federal Constitution's First Amendment
14 guarantee of the right to free association. In March 1999, the Superior Court
15 denied the writ, stating in essence that the credibility determinations by the Board
16 were binding and the due process and constitutional arguments were
17 insignificant. On June 25, 1999, plaintiff appealed the denial of the writ to the
18 California Court of Appeal.

19 68. While Dr. Pearce's appeal was pending, his lawsuits against
20 Alexander were also pending. During the course of those lawsuits, Alexander
21 had, on April 01, 1999, suborned the lawyer who defended plaintiff in *Stuart v.*
22 *SCIF*, Thomas Hogan, to testify by affidavit that plaintiff had authorized a
23 settlement of that lawsuit. Alexander wanted to set up a defense to *Pearce v.*
24 *Alexander* by claiming *Stuart v. SCIF* had been settled with Dr. Pearce's
25 consent.

26 69. Alexander was in regular communication and working in concert with
27 Romeo, by among other things, sending copies of all depositions he obtained
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1 while defending plaintiff's lawsuits to Romeo's office.

2 70. On August 18, 1999, during a hearing on his lawsuits, plaintiff
3 explained to a judge that Alexander's lawyers were presenting, under oath, two
4 mutually exclusive claims about money they had spent defending against Dr.
5 Pearce, of which, only one could be true. Upon leaving the courtroom, Anthony
6 Pinelli, Alexander's lawyer, threatened plaintiff with physical violence if plaintiff
7 attempted to make such an explanation again. The threat shook up plaintiff.
8 After consulting court personnel and lawyers, Plaintiff wrote Pinelli asking for an
9 apology. On August 19, 1999, Pinelli's partner, Jack Williams, wrote plaintiff
10 back admitting the assault had occurred and stating, in essence, that plaintiff
11 deserved to be shot by him or Pinelli. On or about September 2, 1999, Winifred
12 Botha, another attorney for Alexander, telephoned plaintiff and again threatened
13 physical violence against plaintiff.

14 71. Alexander devised a scheme to sabotage plaintiff's appeal by making
15 it appear that Dr. Pearce had protested the assault and threats because he was
16 delusional, paranoid, and narcissistic and was therefore a threat to the courts
17 and parties. In order to carry out this scheme, Alexander and Botha
18 misrepresented to two psychologists they had hired to examine Dr. Pearce into
19 believing Dr. Pearce had committed all of the acts the Chiropractic Board
20 claimed. They agreed to hire these two psychologists, Louis Everstine and
21 Diana Everstine, because Alexander had used them before and knew he could
22 rely upon them to say whatever he wanted them to say about Dr. Pearce. The
23 Everstines agreed to fabricate a report that claimed Dr. Pearce was delusional,
24 paranoid, and narcissistic and, hence, a danger to Alexander, the Chiropractic
25 Board, the Court, and to every witness who had testified against him. They
26 further agreed to destroy evidence in their interview of Dr. Pearce which
27 contradicted their report and to falsify testing so as to support their diagnosis.

1 Botha agreed to participate in this course of action because she wanted to cover
2 up her having threatened Dr. Pearce.

3 72. On October 12, 1999, Botha and Alexander obtained a temporary
4 restraining order based on the Everstines' fabricated report. Alexander asked the
5 court to authorize him to inform Chiropractic Board and the California
6 Acupuncture Board ("Acupuncture Board"), the courts, the Chiropractic Board
7 and all defendants herein, of the TRO. The court denied Alexander's request
8 and ordered him not to inform anyone other than parties to Dr. Pearce's lawsuits
9 against Alexander of the existence of the TRO or any information upon which the
10 TRO was based.

11 73. Alexander violated the court's order by sending copies of the TRO
12 to Romeo who in turn provided copies to the Chiropractic Board and Acupuncture
13 Board. Alexander also violated the trial court's order by informing the Appeals
14 court of the TRO while plaintiff's appeal and his lawsuit for malicious prosecution
15 against Alexander was pending before that court. Alexander intended, by
16 informing the Appeals court of the TRO, to prejudice said court in plaintiff's
17 appeal of the revocation of his license and his appeal in his lawsuit against
18 Alexander.

19 74. In support of his TRO attempt, on November 15, 1999, Alexander
20 suborned attorney for Stuart, Thomas Lewellyn ("Lewellyn"), to falsely state
21 under oath that Dr. Pearce had stalked him. Lewellyn was an attorney who
22 defended Alexander in Dr. Pearce's suit against her. Dr. Pearce had gone to the
23 office of Lewellyn at the invitation of Lewellyn to deliver and discuss some
24 papers. Lewellyn testified that Dr. Pearce had gone to his office unannounced
25 to stalk him. On February 25, 2000, Lewellyn recanted his perjury that Dr.
26 Pearce had stalked him. However, in the same document, he falsely testified that
27 the newspaper articles referred to above truthfully stated what Plaintiff had done
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1 to Stuart.

2 75. As a result of the TRO against Dr. Pearce, Dr. Pearce was placed
3 under guard when he entered the courthouse. The chaperoning by guards, the
4 threats by Alexander's attorneys, and the TRO intimidated Dr. Pearce. He was
5 afraid to attend the hearing. As a consequence, Dr. Pearce was not able to
6 expose Botha's perjury in support of a motion to deny Plaintiff the ability to
7 present evidence in his lawsuit. Botha had falsely testified in her moving papers
8 that Dr. Pearce had violated a court order by writing an intentionally bad check.
9 As a result of Botha's perjury and Dr. Pearce's fear of exposing it at the hearing,
10 Dr. Pearce was sanctioned in such a way as to prevent him from presenting any
11 material evidence in support of his defamation lawsuit.

12 76. The Acupuncture Board received a copy of the TRO. The board
13 responded to notice of the TRO by moving the Santa Clara Superior Court to
14 allow it access to the reports of Alexander's psychologists, Diana Everstine and
15 Louis Everstine. The court granted the motion on June 26, 2000.

16 77. On July 10, 2000, at trial on the TRO, Alexander's claims in his TRO
17 were exposed as a fabrication. During the hearing, psychologist Louis Everstine
18 was revealed to have been diagnosed as having a paranoid and narcissistic
19 personality disorder, to have stalked a married woman for five years, and having
20 been disciplined by the Psychology Board for these two facts. He was also
21 exposed as having falsified his testing and having projected his own personality
22 disorder on plaintiff. The Everstines were also revealed to have destroyed 51
23 minutes of Diana Everstine's audio tape of her interview of plaintiff. Contained
24 in the 51 minutes of missing recording was plaintiff's description of Pinelli's
25 assault, Williams' letter, and plaintiff discussing his fear of further exposing
26 perjury made by Alexander or his lawyers.

27 78. Oral argument on plaintiff's appeals occurred in November 2000. At
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1 oral argument on plaintiff's appeal of revocation of his license, the appellate
2 judges indicated that they were considering reversing the judgment and ordering
3 a trial on the Chiropractic Board decision. Romeo and her superiors became
4 concerned that Romeo's lies to Judge Lew and Alexander's perjury would be
5 exposed at the trial, that the judgment would be reversed, allowing plaintiff to sue
6 Chiropractic Board, Sullivan, Romeo, Sharp, for violating plaintiff's rights as
7 alleged herein by, among other things, coaching Morrow to change her
8 testimony, fabricating Sullivan's report, destroying their investigative file while it
9 was under subpoena, prosecuting plaintiff for having obeyed the law, vindictively
10 raising the penalty against plaintiff, suborning Alexander to commit perjury
11 against plaintiff, and having Dr. Pearce searched under false pretenses.

12 79. To defend their actions, Romeo and her superiors, Vivien Hersh and
13 Susan Meadows, (Romeo and Supervisors) devised a scheme to have Dr.
14 Pearce found mentally disordered. Romeo and Supervisors demanded from the
15 Everstines, their records of their examination of Dr. Pearce.

16 80. Fearing that their records would show that they fabricated their
17 diagnosis of plaintiff, that they had destroyed part of their audiotape of Dr.
18 Pearce's interview and falsely conspired to move for a TRO without probable
19 cause, the Everstines refused to turn over their records of their testing and
20 interview to the Acupuncture Board for review. Alexander advised them not turn
21 over the records. Alexander's first purpose was to force the Acupuncture Board
22 to do an independent examination of Dr. Pearce, thereby providing him an
23 affirmative defense for malicious prosecution under California Law. Alexander's
24 second purpose was to help protect himself and the Everstines from discipline
25 for having conspired with him to fabricate a report and falsely move for a TRO.

26 81. Romeo and Supervisors recruited a psychologist to claim that the
27 existence of the TRO and the Everstine's report was alone enough to warrant an
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1 examination of plaintiff. On December 14, 2000, AG defendants prevailed upon
2 Acupuncture Board to order Plaintiff to be examined by defendant psychologist
3 Peter Berman ("Berman"). AG defendants chose Berman because they knew
4 Berman was not qualified to make a forensic analysis of plaintiff and would
5 interpret whatever tests he performed in ways favorable to AG's ends regardless
6 of whether the testing actually supported AG's purposes.

7 82. To enable Berman to fabricate what Dr. Pearce stated to Berman,
8 AG defendants by and through defendants Meadows and Lawrence Mercer
9 ("Mercer") forbade plaintiff from audiotaping Berman's examination of him on
10 threat of automatically revoking his license to practice acupuncture if Dr. Pearce
11 attempted to do so. Berman fabricated his diagnosis by, among other things,
12 claiming Dr. Pearce had been assertive and demanding when, in fact, he had
13 been accommodating to Berman's every demand; falsely reported about Dr.
14 Pearce's tone, demeanor and answers to his questions, and claimed Dr.
15 Pearce's pictures showed he was mentally ill because he had not drawn a
16 landscape for two of the pictures, when, in fact, Berman had taken them from Dr.
17 Pearce before Dr. Pearce could finish them, and by claiming testing was
18 consistent with his diagnosis when, in fact, the testing showed Dr. Pearce did
19 not have the diagnosis Berman assigned to Dr. Pearce. Using the Everstine
20 report as a model, Berman claimed Dr. Pearce had a paranoid and narcissistic
21 personality that would cause him to attack his patients with lawsuits and
22 prevented him from admitting the Chiropractic Board's claims against him.
23 Berman also claimed Dr. Pearce showed poor judgment in treating patients while
24 defending his name through the courts. Berman ignored the fact that Dr. Pearce
25 had told him he had wound down his practice in anticipation of quitting practice.

26
27 83. On January 8, 2001, Dr. Pearce prevailed in the appeal of the
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1 revocation of his license by the Chiropractic Board. A remand hearing was
2 scheduled for May 21, 2001. To prejudice the remand hearing, Berman
3 produced the custom-ordered report at the instance of the AG defendants
4 claiming Dr. Pearce was mentally unfit to practice acupuncture. Berman's sole
5 evidence was the former existence of the TRO, his lies about what plaintiff said
6 to him, and his deliberate misinterpretations of and lies about the testing he
7 performed on plaintiff. Berman intentionally ignored all evidence presented to
8 him that showed Dr. Pearce was normal, claiming that he, Berman, could not
9 understand it. Berman relied heavily on the fact that the Everstine report had
10 been used to obtain a TRO as evidence that the Everstine report supported his
11 conclusions.

12 84. On March 22, 2001, AG defendants moved for an emergency order
13 declaring plaintiff unfit to practice. Administrative Law Judge Jonathon Lew (by
14 now no longer PLJ) denied the request.

15 85. The remanded trial of the accusations against Dr. Pearce's
16 chiropractic license was presided over by the Honorable Judge Thomas
17 Edwards. The remand hearing was held in Santa Clara County Superior court
18 on May 21, 2001 and June 15, 2001.

19 86. During remand hearing, Lloyd Paris ("Paris"), the AG attorney
20 representing the Chiropractic Board, insisted that nothing improper had occurred
21 when Romeo had Dr. Pearce searched. Plaintiff presented new evidence that
22 Romeo had fabricated evidence to obtain both orders to have a peace officer at
23 the hearings on plaintiff's chiropractic license.

24 87. Paris admitted during the trial that Chiropractic Board had no cause
25 for punishing Dr. Pearce for having an attitude. The court determined that
26 plaintiff's examinations and procedures were in accord with Chiropractic Board's
27 own licensing examination requirements. The court further determined that
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1 plaintiff had not been given notice, as required by due process that he could be
2 punished for an attitude, or that consent by any of the patients he examined was
3 an issue on which he had to defend. The court stated, furthermore, that the
4 evidence on consent and attitude was insufficient to sustain the Chiropractic
5 Board's decision. Dr. Pearce had presented no evidence in defense of these
6 claims.

7 88. On July 5, 2001, the Everstines, through sworn affidavit made out by
8 Diana Everstine, admitted that they received information previously denied them
9 by Alexander's attorneys and on that basis, repudiated their own report.

10 89. On September 6, 2001, the Superior Court issued its writ restoring
11 plaintiff's license to practice chiropractic and terminating *Chiropractic Board v.*
12 *Pearce*.

13 90. Chiropractic Board did not take an appeal of the writ. Thus, the
14 decision of the Superior Court became final and Plaintiff exhausted his
15 administrative remedies before said agency.

16 91. Dr. Pearce informed Berman that he, Plaintiff herein, had prevailed
17 in the Chiropractic Board disciplinary proceedings, that Diana Everstine
18 repudiated her own report, that the Everstines had destroyed 51 minutes of their
19 taped interview of Pearce, and that Ed Cullen, an attorney for Alexander who had
20 obtained the Everstine report, had himself concluded that the Everstine's report
21 was unsupportable. However, the AG defendants, pressed forward with their
22 campaign to revoke plaintiff's acupuncture license based on Berman's fabricated
23 report and a report based on the Everstine report.

24 92. The hearing on Dr. Pearce's acupuncture license occurred for eight
25 days between January 28 and February 8, 2002. The hearing was before ALJ
26 Jonathon Lew. On the first day of trial, ALJ Lew stated on the record as judge
27 that he had never ordered a search of plaintiff in the *Chiropractic Board v.*
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1 *Pearce* hearings.

2 93. Berman testified that he had not relied upon the Everstine report in
3 coming to his conclusions about Dr. Pearce. Berman's testimony that his testing
4 supported his diagnosis was exposed as false. Dr. Pearce presented competent
5 expert witnesses that plaintiff was not mentally ill. Ed Cullen, Alexander's former
6 attorney, testified that had not believed the Everstine report and that Dr. Pearce
7 exhibited an unusual amount of calm and professionalism even when he had
8 been threatened by his colleagues, had lost his ability to present evidence in his
9 defamation suit, and had lost the malicious prosecution action due to his attorney,
10 Thomas Hogan settling the Alexander lawsuit without his consent. Mr. Cullen
11 also testified that he had developed a sincere respect for Dr. Pearce while
12 defending Alexander. Plaintiff submitted over 100 affidavits from patients,
13 colleagues, teachers, and physicians; all of whom testified that plaintiff did not
14 exhibit any signs or symptoms of having a mental illness. Dr. Pearce's lawyers
15 in *Chiropractic Board v. Pearce* testified in the Acupuncture Board hearing that
16 they had warned Dr. Pearce that Berman and the Attorney Generals' Office was
17 "out to get him." Mr. Castro, Dr. Pearce's trial attorney in the Chiropractic
18 Board matter, testified that he became personally convinced that the Chiropractic
19 Board had decided to revoke Dr. Pearce's license regardless of the evidence
20 presented in the trial.

21 94. ALJ Lew found in favor of Dr. Pearce, pointing out some of Berman's
22 self-contradictions in the body of his decision. Acupuncture Board adopted
23 Judge Lew's decision effective on May 16, 2002.

24 95. AG defendants did not move for a writ to overturn Acupuncture
25 Board's decision within the statutory time period to do. Hence, Judge Lew's
26 decision has become final and Dr. Pearce has exhausted all administrative
27 remedies for actions before said agency.

**FIRST CLAIM FOR DAMAGES AGAINST ROMEO FOR
VIOLATION OF 42 U.S.C. SECTION 1983**

96. Plaintiff realleges and incorporates by reference the allegations in paragraphs one through 95.

97. As alleged, Romeo violated the right of plaintiff to due process by fabricating evidence for use in the hearings on his chiropractic license and making a false statement that Plaintiff had stalked and harassed witnesses.

98. As alleged in paragraph 42, Romeo presented her first ex parte false and fabricated evidence without notice to Dr. Pearce. As a result, he never had an opportunity to respond to or defend against her fabricated evidence.

99. This action violated Dr. Pearce's right to due process of law as guaranteed by the United States Constitution, a violation of 42 U.S.C. 1983. Since Romeo's actions were police actions, not prosecutorial actions, she has no claim for prosecutorial immunity. The law was well settled before 1995 that fabrication of evidence for use in a trial against an accused in administrative settings is a violation of the accused rights under the Constitution of the United States. Hence, Romeo has no claim for immunity that could shield her for liability for this claim for damages.

100. As alleged in paragraphs 42 through 44, Romeo and other defendants herein fraudulently concealed Romeo's fabrication of evidence. As a direct and proximate result of said fraudulent concealment, Plaintiff was unable to discover the fact that Romeo had fabricated evidence until April 2001. Hence, this claim for damages did not, and could not have, accrued until April 2001, less than four years prior to the filing of this lawsuit.

101. As a direct and proximate result of the conduct alleged herein, Plaintiff suffered special and general damages in an amount according to proof before a jury.

1 102. As alleged herein, Romeo's conduct was malicious, fraudulent, and
2 oppressive. Accordingly, Plaintiff is entitled to punitive and exemplary damages
3 in an amount to be determined by jury.

4 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

5
6 **SECOND CLAIM FOR DAMAGES AGAINST ROMEO FOR**
7 **VIOLATION OF 42 U.S.C. 1983**

8 103. Plaintiff realleges and incorporates by reference the allegations in
9 paragraphs one through 95.

10 104. As alleged, Romeo abused her authority as a prosecutor to claim she
11 had an order to have Plaintiff searched when she knew she had no such
12 authority and no probable cause for ordering such a seizure and search. Utilizing
13 her false claim of authority, she caused Plaintiff to be seized and searched.
14 Hence, the seizure and search of Plaintiff was in violation of the Fourth
15 Amendment to the United States Constitution, a violation of 42 U.S.C. 1983. The
16 law was well settled in 1995 that such illegal search and seizures violate citizen's
17 rights under the Fourth Amendment to the United States Constitution. As a
18 prosecutor, Romeo was charged with the responsibility for not violating the rights
19 of citizens situated as Dr. Pearce was. Hence, Romeo is not shielded by any
20 doctrine of immunity from liability for this claim for damages.

21 105. As alleged in paragraphs 42 through 44 and 92, Romeo, Sharp AG
22 defendants, and Romeo's Supervisors fraudulently concealed Romeo's lack of
23 authority to order Dr. Pearce searched. As a direct and proximate result of said
24 fraudulent concealment, plaintiff was unable to discover that Romeo had no
25 authority to order the seizure and search of plaintiff. As alleged in paragraph 92,
26 on January 28, 2001, Plaintiff made a serendipitous discovery that Romeo did not
27 have the authiorty to have Plaitniff searched.

1 106. As a direct and proximate result of the conduct alleged herein,
2 Plaintiff suffered special and general damages in an amount according to proof
3 before a jury.

4 107. As alleged herein, Romeo's conduct was malicious, fraudulent, and
5 oppressive. Accordingly, Plaintiff is entitled to punitive and exemplary damages
6 in an amount to be determined by jury.

7 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

8 **THIRD CLAIM FOR DAMAGES AGAINST SHARP AND**
9 **UNKNOWN PEACE OFFICER FOR VIOLATION OF 42 U.S.C.**
10 **1983.**

11 108. Plaintiff realleges and incorporates by reference the allegations of
12 paragraphs one through 95.

13 109. As alleged in paragraph 43, Sharp conducted an illegal seizure and
14 search of Dr. Pearce with the aid of a uniformed peace officer armed with a
15 baton and pistol. Plaintiff saw that a refusal to submit to the seizure and search
16 of his person by Sharp would result in violence against him by these defendants.
17 Moreover, Plaintiff was convinced by Romeo, Sharp, and unknown peace officer
18 that failure to acquiesce to the seizure and search of his person could result in
19 confinement in prison and further legal proceedings at his expense for violation
20 of a court order that, in fact, had not been issued.

21 110. Sharp knew that he did not have a valid order. Sharp destroyed his
22 file to cover up the fact that he did never had a valid order to have conducted the
23 seizure and search of Dr. Pearce. Romeo, who knew that she had no probable
24 cause to order the search, and Board Officers aided this cover-up by refusing to
25 enforce the subpoena of Sharp's files. As a direct and proximate result of this
26 fraudulent cover up, Plaintiff was unable to discover that no valid order existed
27 to allow the search and seizure of his person until he discovered made a
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1 serendipitously on January 28, 2001, that there was not order. Hence, this cause
2 of action did not, and could not have accrued until January 28, 2001, less than
3 four years before the filing of this civil action.

4 111. Sharp and Unknown Peace Officer had an affirmative duty to enquire
5 as to the existence of a valid judicial order or probable cause to conduct the
6 seizure and search of Dr. Pearce's person. Neither of said defendants made
7 such an inquiry before seizing and searching Dr. Pearce's person. Instead,
8 Sharp fraudulently concealed the fact that he had no authority to conduct said
9 seizure and search. Said conduct was malicious, fraudulent and oppressive.
10 Hence, Plaintiff is entitled to punitive damages.

11 112. The law was well settled before the seizure and search of plaintiff
12 occurred that such conduct violated Plaintiff's civil rights. Hence, every
13 reasonable government official was on notice that such conduct constituted a
14 violation of 42 U.S.C. 1983.

15 113. As a direct and proximate result of the conduct alleged herein,
16 Plaintiff suffered special and general damages in an amount according to proof.

17 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

18 **FOURTH CLAIM FOR DAMAGES FOR ASSAULT AND**
19 **BATTERY AGAINST ROMEO, SHARP, AND UNKNOWN**
20 **PEACE OFFICER**

21 114. Plaintiff realleges and incorporates paragraphs one through 95, 43,
22 and 44, as if fully set forth.

23 115. Defendants pat down searches of Plaintiff were unauthorized by
24 judicial authority, not supported by probable cause and occurred only under
25 threat of legal process. As such, said defendants' touching of Plaintiff was an
26 assault and battery upon his person carried out under false pretense of authority
27 of law.
28

1 116. As a direct and proximate result of the cover-up of the fact that no
2 official act sanctioned Defendants conduct alleged herein, Plaintiff was unable
3 to discover, and did not discover that the assault and battery upon his person
4 was without official sanction, and therefore actionable until January 28, 2001.
5 Plaintiff presented a Tort Claim to the State of California Board of Control based
6 upon these facts on March 4, 2001. Said claim was rejected by said agency on
7 in May 2002.

8 117. Defendants' conduct, as alleged herein was malicious, fraudulent
9 and oppressive. Hence Plaintiff is entitled to punitive and exemplary damages
10 according to proof..

11 118. As a direct and proximate result of the conduct alleged herein,
12 Plaintiff suffered special and general damages in an amount according to proof.

13 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

14 **FIFTH CLAIM FOR DAMAGES FOR VIOLATION OF**
15 **CALIFORNIA CIVIL CODE SECTIONS 52.1, 51.7, AND**
16 **PURSUANT TO CALIFORNIA CIVIL CODE SECTION 52**
17 **AGAINST ROMEO, SHARP, AND UNKNOWN PEACE**
18 **OFFICER.**

19 119. Plaintiff realleges and incorporates paragraphs 42 through 44, as if
20 fully set forth.

21 120. California Civil Code Section 52.1 states in relevant part:

22 (a) If a person or person, whether or not acting under color of
23 law, interferes by threats, intimidation, coercion, or attempts to
24 interfere by threats, intimidation or coercion, with the exercise or
25 enjoyment by any individual or individuals of rights secured by the
26 Constitution or laws of the United States, or of the rights secured by
27 the Constitution or laws of this state, the Attorney General, or any
28

1 district attorney or city attorney may bring a civil action for injunctive
2 and other appropriate equitable relief in the name of the people of
3 the State of California, in order to protect the peaceable exercise or
4 enjoyment of the right of rights secured.

5 (b) any individual whose exercise or enjoyment of rights
6 secured by the Constitution or laws of the United States, or of rights
7 secured by the Constitution or laws of the state, has been interfered
8 with, or attempted to be interfered with, as described in subdivision
9 (a), may institute an prosecute in his or her own name and on his or
10 her own behalf a civil action for damages, including, but not limited
11 to, damages under Section 52, injunctive relief, and other
12 appropriate equitable relief to protect the peaceable exercise or
13 enjoyment of the right or rights secured.

14 121. California Civil Code Section 52 states in relevant part:

15 (b) Whoever denies the right provided by Section 51.7 or 51.9,
16 or aids, incites, or conspires in that denial, is liable for each and
17 every offense for the actual damages suffered by any person denied
18 that right and

19 (1) An amount to be determined by a jury, or a court sitting
20 without a jury, for exemplary damages.

21 (2) A civil penalty of twenty-five thousand dollars(\$25,000) to
22 be awarded to the person denied the right provided by Section 51.7
23 in any action brought by the person denied the right, or by the
24 Attorney General, a district attorney, or a city attorney.

25 (h) for the purposes of this section, "actual damages" means
26 special and general damages. This subdivision is declaratory of
27 existing law.

1 122. California Civil Code Section 51.7 states in relevant part:

2 (a) All persons within the jurisdiction of this state have the right
3 to be free from any violence, or intimidation by threat of violence,
4 committed against their persons or property because of their race,
5 color, religion, ancestry, national origin, political affiliation, sex,
6 sexual orientation, age, disability, or position in a labor dispute, or
7 because another person perceives them to have one or more of
8 those characteristics. The identification in this subdivision of
9 particular bases of discrimination is illustrative rather than restrictive.

10 123. As alleged herein, Plaintiff was intimidated and coerced under color
11 of law by threat of violence by defendants Romeo, Sharp, and Unknown Peace
12 Officer into suffering a battery upon his person and a denial of his rights to be
13 free from illegal seizures and searches as guaranteed by the Fourth Amendment
14 of the United States Constitution and by the California Constitution. Hence,
15 Plaintiff is entitled to special damages and general damages, exemplary damages
16 according to the decision of the jury, a civil fine of \$25,000.00 against each
17 defendant and in favor of Plaintiff, and attorneys fees as determined by the court.

18
19 124. As a direct and proximate result of the fraudulent concealment by
20 defendants of the fact that no authority for their action against plaintiff existed,
21 Plaintiff was unable to discover that he had these causes of action against these
22 defendants until January 28, 2002. Plaintiff filed a Tort claim based upon these
23 facts with the California State Board of Control which was rejected in May 2002.
24 Accordingly, this claim for damages is timely.

25 125. The California Unruh Civil Rights Act, of which the sections of
26 California Law quoted herein are a part, was enacted in 1987.

27 126. Defendants concealment of the facts giving rise to this cause of
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1 action, being fraudulent and oppressive against Dr. Pearce's rights as secured
2 by this statute, gives this court cause to award punitive and exemplary damages
3 as deterrence of future fraudulent concealment by state actors similarly situated.

4 127. As a direct and proximate result of the actions of defendants herein
5 alleged, Plaintiff suffered special and general damages in an amount according
6 to proof.

7 Wherefore, Plaintiff prays for relief as hereinafter set forth.

8 **SIXTH CLAIM FOR DAMAGES FOR MALICIOUS**
9 **PROSECUTION AGAINST STUART, LOVE, LEVIN, GUY,**
10 **FULTON, YONTS, YONTS & FULTON, AND ALEXANDER**

11 128. Plaintiff realleges and incorporates paragraphs one through 95, as
12 if fully set forth herein.

13 129. As alleged, said defendants, and each of them, instigated and
14 prosecuted Stuarts' false claims against Plaintiff before the Chiropractic Board
15 for the motives of protecting Stuart, Love, and Levin from exposure of their
16 insurance fraud and for the purpose of creating monetary recovery for their false
17 claims against Stuart's workers' compensation carrier.

18 130. As a direct and proximate result of defendants' and each of their
19 actions alleged herein, Plaintiff suffered physical injury, and special and general
20 damages according to proof.

21 131. Said defendants actions, and each of their actions, as alleged, were
22 malicious, fraudulent, oppressive and in furtherance of the commission of a crime.
23 Hence Plaintiff is entitled to punitive damages.

24 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

25 **SEVENTH CLAIM FOR DAMAGES FOR VIOLATION OF 42 U.S.C.**
26 **1983 AND 1985 AGAINST DAVIS AND SHARP**

27 132. Plaintiff realleges and incorporates herein paragraphs one through
28

1 95, 29 through 30, as if fully set forth.

2 133. As alleged, Davis and Sharp solicited and induced Defendant C.
3 Brett Sullivan to fabricate evidence. Sullivan did fabricate evidence for use in
4 Chiropractic Board v. Pearce.

5 134. Before the time they engaged in these acts, the law was well settled
6 that these acts were in violation of the due process protections of the United
7 States Constitution.

8 135. As a direct and proximate cause of these acts, Plaintiff was forced
9 to defend his name, and his ability to practice his profession until September 6,
10 2001. Plaintiff suffered loss of his license to practice his profession for two years
11 and other special and general damages in an amount according to proof.

12 136. Defendants' fraudulent concealment of their actions was malicious
13 and oppressive. Accordingly, Plaintiff is entitled to punitive damages according
14 to proof.

15 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

16 **EIGHTH CLAIM FOR DAMAGES AGAINST DEFENDANT**

17 **SULLIVAN FOR VIOLATION OF 42 U.S.C. 1983**

18 137. Plaintiff realleges and incorporates herein paragraphs one through
19 95, and in particular paragraph 31, as though fully set forth.

20 138. Sullivan agreed to fabricate his report so as to hide his ignorance
21 and lack of expertise in the matter he was asked to testify in Chiropractic Board
22 v. Pearce.

23 139. Before the time he engaged in these acts, the law was well settled
24 that these acts were in violation of the due process protections of the United
25 States Constitution.

26 140. As a direct and proximate cause of these acts, Plaintiff was forced
27 to defend his name, and his ability to practice his profession until September 06,
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1 2001. Plaintiff suffered loss of his license to practice his profession for two years
2 and other special and general damages in an amount according to proof.

3 141. Defendants' fraudulent concealment of his actions was malicious and
4 oppressive. Accordingly, Plaintiff is entitled to punitive and exemplary damages
5 according to proof.

6 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

7 **NINTH CLAIM FOR DAMAGES AGAINST DEFENDANT**

8 **SULLIVAN FOR MALICIOUS PROSECUTION**

9 142. Plaintiff realleges and incorporates paragraphs one through 95, and
10 in particular paragraph 30, as if fully alleged herein.

11 143. As alleged, Sullivan joined in the instigation and prosecution of
12 Plaintiff without probable cause for having performed a rectal examination of
13 Stuart and for making a correct diagnosis of Stuart. Sullivan did these things in
14 order to promote his political view. Sullivan's action was malicious toward
15 Plaintiff in that he knew his actions would damage Pearce.

16 144. As a direct and proximate cause of Sullivan's actions, Dr. Pearce
17 suffered special and general damages according to proof.

18 145. Sullivan's action was fraudulent, malicious and oppressive. Hence,
19 Plaintiff is entitled to punitive damages.

20 Wherefore Plaintiff prays for judgment as hereinafter set forth.

21 **TENTH CLAIM FOR DAMAGES FOR VIOLATION OF U.S.C.**

22 **1985 BY DAVIS, SULLIVAN, AND SHARP**

23 146. Plaintiff realleges and incorporates paragraphs one through 95, and
24 in particular paragraphs 29 through 30, as if fully alleged herein.

25 147. As alleged, these defendants engaged in a conspiracy to violate
26 U.S.C. 1983 and did carry out said conspiracy.

27 148. As a direct and proximate result of said defendants' actions, plaintiff
28

1 suffered special damages including but not limited to physical injury of an ulcer
2 requiring medical treatment and loss of liberty and property interest in an amount
3 according to proof.

4 149. Defendants actions were fraudulent, malicious, and oppressive.
5 Hence, Plaintiff is entitled to punitive and exemplary damages in an amount to be
6 determined by a jury.

7 Wherefore, plaintiff prays for judgment as hereinafter set forth.

8 **ELEVENTH CLAIM FOR DAMAGES AGAINST DEFENDANT**
9 **SHARP FOR VIOLATION OF 42 U.S.C. 1983.**

10 150. Plaintiff realleges and incorporates herein paragraphs one through
11 95, and in particular paragraph 46, as if fully alleged. As alleged Sharp induced
12 Defendant Scheffer to fabricate a story for use as evidence against Dr. Pearce
13 in State Board of Chiropractic Examiners v. Pearce. Upon obtaining said
14 fabrications, Sharp incorporated the fabrications into a report upon which he
15 knew Chiropractic Board would commence an action against Pearce. He then
16 concealed the fact that his report contained these fabrications by among other
17 things, concealing the fact that Scheffer had changed her story to suit his
18 purposes and had agreed to present the fabricated story, at his request, as
19 evidence against Dr. Pearce in said proceedings. He then falsely testified to the
20 validity of Scheffer's perjury. Then, to prevent discovery of his act, he destroyed
21 his investigative file and notes rather than let them be discovered through the
22 subpoena power of the Chiropractic Board.

23 151. Before the time he engaged in these acts, the law was well settled
24 that these acts were in violation of the due process protections of the United
25 States Constitution.

26 152. As a direct and proximate cause of these acts, Plaintiff was forced
27 to defend his name, and his ability to practice his profession until September 06,
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1 2001. Plaintiff suffered loss of his license to practice his profession for two years
2 and other special and general damages in an amount according to proof.

3 153. Defendants' fraudulent concealment of his actions was malicious and
4 oppressive. Accordingly, Plaintiff is entitled to punitive damages. Defendants'
5 fraudulent concealment resulted in the statute of limitations to prosecute him for
6 perjury passing before his crime could be discovered and prosecuted. Hence,
7 this court has a duty to award exemplary damages so as to deter other peace
8 officers from engaging in the same sort of reprehensible cover-up of their
9 wrongdoings.

10 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

11 **TWELFTH CLAIM FOR DAMAGES FOR MALICIOUS**
12 **PROSECUTION AGAINST SCHEFFER**

13 154. Plaintiff realleges and incorporates paragraphs 45 and 46, as if fully
14 set forth.

15 155. As alleged, Scheffer falsely instigated and prosecuted claims of
16 wrongdoing by Dr. Pearce before the Chiropractic Board. Scheffer knew these
17 claims were false. Scheffer did not have a motive of assisting the Chiropractic
18 Board in determining Plaintiff's fitness to practice chiropractic. Her motive was
19 to cover-up her own insurance fraud.

20 156. As a direct and proximate result of Scheffer's conduct, Plaintiff
21 incurred special and general damages according to proof including but not limited
22 to treatment for physical injury in the form of an ulcer, the expense of defending
23 against her claims, loss of his license to practice chiropractic for two years, loss
24 of business and business relations, loss of goodwill in his business, loss of
25 economic opportunities, and general damages according to proof.

26 157. Scheffer's conduct as alleged herein was malicious, fraudulent, and
27 oppressive. Hence, Plaintiff is entitled to punitive and exemplary damages
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1 according to proof.

2 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

3 **THIRTEENTH CLAIM FOR DAMAGES AGAINST SCHEFFER**
4 **FOR VIOLATION OF 42 U.S.C. 1983**

5 158. Plaintiff realleges and incorporates paragraphs one through 45, 46,
6 and 54 as fully set forth herein.

7 159. As alleged, Scheffer's fabrication of evidence at the request of Sharp
8 was a violation of 42 U.S.C. 1983 in that it was a violation of Plaintiff's rights not
9 to be prosecuted without probable cause by evidence fabricated at the behest
10 of the state. That this sort of behavior is a violation of plaintiff's civil rights was
11 well established prior to 1995.

12 160. As a direct and proximate result of Scheffer's conduct, Plaintiff
13 incurred special and general damages according to proof including but not limited
14 to treatment for physical injury in the form of an ulcer, the expense of defending
15 against her claims, loss of his license to practice chiropractic for two years, loss
16 of business and business relations, loss of goodwill in his business, loss of
17 economic opportunities, and general damages according to proof.

18 161. Scheffer's conduct as alleged herein was malicious, fraudulent, and
19 oppressive. Hence, Plaintiff is entitled to punitive damages.

20 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

21 **FOURTEENTH CLAIM FOR DAMAGES FOR VIOLATION OF**
22 **42 U.S.C. 1985 AGAINST SCHEFFER AND SHARP.**

23 162. Plaintiff realleges and incorporates paragraphs one through 44, 45,
24 46 and 54, as if fully set forth.

25 163. As alleged, the actions of Sharp and Scheffer and agreement to carry
26 out said actions constitute a conspiracy as defined by 42 U.S.C. 1985.

27 164. As a direct and proximate result of said conspiracy, Plaintiff incurred
28

1 special and general damages according to proof including but not limited to
2 treatment for physical injury in the form of an ulcer, the expense of defending
3 against her claims, loss of his license to practice chiropractic for two years, loss
4 of business and business relations, loss of goodwill in his business, loss of
5 economic opportunities, and general damages according to proof.

6 165. Scheffer's and Sharp's conduct as alleged herein was malicious,
7 fraudulent, and oppressive. Hence, Plaintiff is entitled to punitive damages.

8 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

9 **FIFTEENTH CLAIM FOR DAMAGES AGAINST DEFENDANT**

10 **SHARP FOR VIOLATION OF 42 U.S.C. 1983.**

11 166. Plaintiff realleges and incorporates herein paragraphs one through
12 47, 49, and 53, as if fully set forth.

13 167. As alleged Sharp induced Defendant Brickman to fabricate a story
14 for use as evidence against Dr. Pearce in State Board of Chiropractic Examiners
15 v. Pearce. Upon attaining said fabrications, Sharp incorporated the fabrications
16 into a report upon which he knew Chiropractic Board would commence an action
17 against Pearce. He then concealed the fact that his report contained these
18 fabrications by among other things, concealing the fact that records in his
19 possession showed Brickman's story did not occur as she alleged and that she
20 agreed to present the fabricated story, at his request, as evidence against Dr.
21 Pearce in said proceedings. He then falsely testified to the validity of Brickman's
22 false accusations. Then, to prevent discovery of his act, he destroyed his
23 investigative file and notes rather than let them be discovered through the
24 subpoena power of the Chiropractic Board.

25 168. Before the time he engaged in these acts, the law was well settled
26 that these acts were in violation of the due process protections of the United
27 States Constitution.

1 169. As a direct and proximate cause of these acts, Plaintiff was forced
2 to defend his name, and his ability to practice his profession until September 06,
3 2001. Plaintiff suffered loss of his license to practice his profession for two years
4 and other special and general damages in an amount according to proof.

5 170. Defendants' fraudulent concealment of his actions was malicious and
6 oppressive. Accordingly, Plaintiff is entitled to punitive damages. Defendants'
7 fraudulent concealment resulted in the statute of limitations to prosecute him for
8 perjury passing before his crime could be discovered and prosecuted. Hence,
9 this court has a duty to award exemplary damages so as to deter other peace
10 officers from engaging in the same sort of reprehensible cover-up of their
11 wrongdoings.

12 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

13 **SIXTEENTH CLAIM FOR DAMAGES AGAINST BRICKMAN**
14 **FOR MALICIOUS PROSECUTION**

15 171. Plaintiff realleges and incorporates by reference the allegations of
16 paragraphs 47, 53, as if fully set forth. As alleged, Brickman falsely instigated
17 and prosecuted claims of wrongdoing by Dr. Pearce before the Chiropractic
18 Board. Brickman knew these claims were false. Brickman did not have a motive
19 of assisting the Chiropractic Board in determining Plaintiff's fitness to practice
20 chiropractic. Her motive was to retaliate against Plaintiff for having sent her to
21 collections.

22 172. As a direct and proximate result of Brickman' conduct, Plaintiff
23 incurred special and general damages according to proof including but not limited
24 to treatment for physical injury in the form of an ulcer, the expense of defending
25 against her claims, loss of his license to practice chiropractic for two years, loss
26 of business and business relations, loss of goodwill in his business, loss of
27 economic opportunities, and general damages according to proof.

1 173. Brickman's conduct as alleged herein was malicious, fraudulent, and
2 oppressive. Hence, Plaintiff is entitled to punitive damages.

3 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

4 /

5 /

6 **SEVENTEENTH CLAIM FOR DAMAGES AGAINST BRICKMAN**
7 **FOR VIOLATION OF 42 U.S.C. 1983.**

8 174. Plaintiff realleges and incorporates paragraphs 47, 53, as if fully set
9 forth.

10 175. As alleged, Brickman's fabrication of evidence at the request of
11 Sharp was a violation of 42 U.S.C. 1983 in that it was a violation of Plaintiff's
12 rights not to be prosecuted without probable cause by evidence fabricated at the
13 behest of the state. That this sort of behavior is a violation of plaintiff's civil rights
14 was well established prior to 1995.

15 176. As a direct and proximate result of Brickman's conduct, Plaintiff As
16 a direct and proximate result of Brickman's conduct, Plaintiff incurred special and
17 general damages according to proof including but not limited to treatment for
18 physical injury in the form of an ulcer, the expense of defending against her
19 claims, loss of his license to practice chiropractic for two years, loss of business
20 and business relations, loss of goodwill in his business, loss of economic
21 opportunities, and general damages according to proof.

22 177. Brickman's conduct as alleged herein was malicious, fraudulent, and
23 oppressive. Hence, Plaintiff is entitled to punitive damages.

24 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

25 **EIGHTEENTH CLAIM FOR DAMAGES FOR VIOLATION OF 42**
26 **U.S.C. 1985 AGAINST BRICKMAN AND SHARP.**

27 178. Plaintiff realleges and incorporates paragraphs 47 and 53, as if fully
28

1 set forth.

2 179. As alleged, the actions of Sharp and Brickman and agreement to
3 carry out said actions constitute a conspiracy as defined by 42 U.S.C. 1985.

4 180. As a direct and proximate result of said conspiracy, plaintiff As a
5 direct and proximate result of Brickman's conduct, Plaintiff incurred special and
6 general damages according to proof including but not limited to treatment for
7 physical injury in the form of an ulcer, the expense of defending against her
8 claims, loss of his license to practice chiropractic for two years, loss of business
9 and business relations, loss of goodwill in his business, loss of economic
10 opportunities, and general damages according to proof.

11 181. Brickman's and Sharp's conduct as alleged herein was malicious,
12 fraudulent, and oppressive. Hence, Plaintiff is entitled to punitive damages.

13 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

14 **NINETEENTH CAUSE OF ACTION AGAINST SHARP FOR**
15 **VIOLATION OF 42 U.S.C. 1983.**

16 182. Plaintiff realleges and incorporates paragraphs 48, 49, and 55, as
17 if fully set forth.

18 183. As alleged, Sharp induced Morrow to fabricate a evidence that
19 Morrow had been subjected to a breast examination by Dr. Pearce which did not
20 occur. Sharp then incorporated said fabrication into his report for use in
21 prosecuting Dr. Pearce.

22 184. Then, to prevent discovery of his act, he destroyed his investigative
23 file and notes rather than let them be discovered through the subpoena power
24 of the Chiropractic Board.

25 185. Before the time he engaged in these acts, the law was well settled
26 that these acts were in violation of the due process protections of the United
27 States Constitution.

1 186. As a direct and proximate cause of these acts, Plaintiff was forced
2 to defend his name, and his ability to practice his profession until September 06,
3 2001. Plaintiff suffered loss of his license to practice his profession for two years
4 and other special and general damages in an amount according to proof.

5 187. Defendants' fraudulent concealment of his actions was malicious and
6 oppressive. Accordingly, Plaintiff is entitled to punitive and exemplary damages
7 according to proof. Defendants' fraudulent concealment resulted in the statute
8 of limitations to prosecute him for perjury passing before his crime could be
9 discovered and prosecuted. Hence, this court has a duty to award exemplary
10 damages so as to deter other peace officers from engaging in the same sort of
11 reprehensible cover-up of their wrongdoings.

12 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

13 **TWENTIETH CLAIM FOR DAMAGES AGAINST ROMEO,**
14 **SHARP, ALEXANDER, STUART, AND LEVIN FOR**
15 **DEFAMATION IN CONNECTION WITH VIOLATION OF 42**
16 **U.S.C. 1983 AND VIOLATION OF 42 U.S.C. 1985**

17 188. Plaintiff realleges and incorporates paragraphs 33 through 39, as
18 if fully set forth.

19 189. As alleged, defendants Romeo, Sharp, Alexander, Stuart, Levin, and
20 each of them, agreed to plant articles in the San Francisco Examiner and San
21 Jose Mercury News so as to defame plaintiff and utilize said defamation to
22 produce additional complainants against Plaintiff. The agreement was carried
23 out by Romeo, Levin, Stuart, and Alexander by placing articles in the San
24 Francisco Examiner and San Jose Mercury News which Dr. Pearce. In
25 furtherance of said agreement, said defendants arranged to have Sharp interview
26 each such respondent to the newspaper articles and convince each respondent
27 to become a complaining witness against Plaintiff. Sharp, as alleged in
28

1 paragraphs 46, 47, and 48 did interview respondents and convinced them to
2 fabricate evidence against Dr. Pearce that Romeo and Sharp then utilized to
3 prosecute Dr. Pearce. Thus, Sharp utilized the defamation by Romeo, Levin,
4 Stuart, and Alexander to prosecute Dr. Pearce and damage him. As such, these
5 acts of defamation were carried out in connection with prosecuting Dr. Pearce
6 without probable cause.

7 190. By engaging in these activities, defendants denied Plaintiff equal
8 protection under the laws enjoyed by all others of not being subjected to
9 defamation in order to conjure up baseless charges upon which to deprive
10 Plaintiff of his liberty and property interest in practicing his profession.

11 191. As a direct and proximate result of these actions, Plaintiff suffered
12 physical injury in the form of an ulcer for which he obtained medical treatment,
13 suffered loss of goodwill in his business, suffered expenses in defending against
14 the prosecutions that the defamation engendered, and lost his property and
15 liberty interests in maintaining his business and his chosen professional
16 livelihood. Plaintiff suffered additional special and general damages according
17 to proof.

18 192. Defendants actions were malicious, fraudulent, and oppressive.
19 Accordingly, Plaintiff is entitled to punitive and exemplary damages according to
20 proof.

21 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

22 **TWENTY-FIRST CLAIM FOR DAMAGES AGAINST ROMEO,**
23 **BOURKE, BENNET, AND CHIROPRACTIC BOARD OFFICERS**
24 **FOR VIOLATION OF 42 U.S.C. 1986.**

25 193. Plaintiff realleges and incorporates paragraphs one through 95, as
26 if fully set forth.

27 194. Romeo, as the prosecutor in charge of Sharp's investigation was
28

1 privy to all that Sharp did in his investigation. As a prosecutor, Romeo had a
2 responsibility to abate conspiracies in violation of Civil Rights that occurred in
3 investigations and prosecutions in which she was involved. Romeo did not
4 attempt to abate the conspiracies Sharp engaged in with witnesses. Instead, she
5 joined in the conspiracy which enabled the solicitation of fabricated evidence by
6 Sharp.

7 195. Wilbur Bennet ("Bennet") was Romeo's supervisor in the AG's office
8 during the time that the conspiracy to defame Dr. Pearce was formed and carried
9 out and during the time Sharp utilized the defamation to fabricate evidence for
10 used in Chiropractic Board v. Pearce. Under 42 U.S.C. 1986, Bennet had a duty
11 to abate conspiracies engaged in by his subordinates. Bennet did nothing to
12 abate the conspiracy alleged herein.

13 196. Robert Bourke ("Bourke") was Sharp's supervisor in the department
14 of consumer affairs. As Sharp's supervisor, Bourke had a duty to abate Sharp's
15 participation in a conspiracy in violation of 42 U.S.C. 1985. Bourke did nothing
16 to abate the conspiracy. Instead, he testified that Sharp's destruction of his file
17 was within Department of Consumer Affairs policy!

18 197. Chiropractic Board Officers, as the principals for whom Romeo and
19 Sharp were agents, had a responsibility to abate conspiracies to violate 42
20 U.S.C. 1983 carried out in their name. They did nothing to abate the conspiracy.
21 Instead, when the conspiracies were called to their attention, they increased the
22 penalty against Plaintiff without notice or an opportunity to be heard on whether
23 his penalty should be increased.

24 198. As a direct and proximate cause of the actions and inaction alleged
25 herein, Plaintiff incurred special and general damages including but not limited
26 to loss of his livelihood and in an amount according to proof.

27 199. Said defendants' actions were malicious and oppressive. Hence,
28

1 Plaintiff is entitled to punitive damages.

2 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

3 **TWENTY-SECOND CLAIM FOR DAMAGES FOR VIOLATION**
4 **OF 42 U.S.C. 1983 BY UNKNOWN AG AGENT.**

5 200. Plaintiff realleges paragraph 59, as if fully set forth.

6 201. As alleged, an unknown agent for the AG solicited Lezlie Morrow to
7 fabricate testimony that Plaintiff had molested her during an examination in 1983.
8 Defendants then utilized said fabricated evidence to prosecute Plaintiff.

9 202. As a direct and proximate cause of said conduct, Plaintiff incurred
10 special and general damages according to proof.

11 203. As alleged, said conduct was fraudulent, malicious, and oppressive.
12 Hence, Plaintiff is entitled to punitive damages.

13 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

14 **TWENTY-THIRD CLAIM FOR DAMAGES FOR VIOLATION OF**
15 **42 U.S.C. 1983 AGAINST ROMEO AND ZANE**

16 204. Plaintiff realleges paragraphs on through and 95 and 65 herein as
17 if fully set forth.

18 205. As alleged, Defendant Romeo fabricated evidence that Plaintiff had
19 intimidated a witness during a break in the proceedings in the 1998 hearing on
20 his license. Defendant Romeo then presented said fabrication as her own
21 witness statement to PLJ Lew. As a result of said presentation, Plaintiff was
22 again placed under guard when in presence of the trier of fact in *Chiropractic*
23 *Board v. Pearce*. Said conduct was calculated to prejudice said trier of fact.

24 206. As a direct and proximate result of said conduct, Plaintiff incurred
25 special and general damages according to proof.

26 207. Said conduct was fraudulent, malicious, and oppressive. Plaintiff
27 requests punitive damages.

1 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

2 **TWENTY-FOURTH CLAIM FOR DAMAGES FOR VIOLATION**
3 **OF 42 U.S.C. 1983 AND 42 U.S.C. 1985 AGAINST**
4 **CHIROPRACTIC BOARD MEMBERS**

5 208. Plaintiff realleges and incorporates paragraphs one through 95, as
6 if fully set forth.

7 209. As alleged, Chiropractic Board Members agreed to prosecute Dr.
8 Pearce for making a correct diagnosis and performing an examination in
9 accordance with law and the standard of care. Said defendants in their initial
10 accusation against Pearce stated the rectal examination of Stuart was not
11 indicated. This statement directly contradicted their position in their licensing
12 examinations and also contradicted settled case law. As such, this accusation
13 was made without probable cause. Said defendants, in paragraph F of their
14 accusation claimed Dr. Pearce's diagnosis was outside the standard of care
15 even though this claim was directly contrary to the requirements of the law, their
16 previous public statements, and their licensing examination. As such, this
17 accusation was instigated without probable cause. Both accusations being
18 contrary to law, were beyond the jurisdiction for Chiropractic Board Members to
19 attempt. Board Members were entirely without jurisdiction to instigate
20 prosecution for obeying the law.

21 210. As alleged, Chiropractic Board Members disciplined Dr. Pearce for
22 having not obtained proper consent for his examinations and treatments of the
23 complaining witnesses without having given him notice of their intention to do so
24 and without giving him an opportunity to be heard on this issue.

25 211. As alleged, Chiropractic Board Members disciplined Dr. Pearce for
26 having an attitude they did not like even though Business and Professions code
27 section 475(c) forbids discipline on this ground. Since the law forbade such
28

1 action, Chiropractic Board Members were entirely without jurisdiction to create
2 such discipline. Chiropractic Board Members also disciplined Dr. Pearce for
3 having a social relationship with a family member of a patient. This decision
4 violated Dr. Pearce's right of free association guaranteed by the First
5 Amendment of United States Constitution.

6 212. Chiropractic Board Members made their decision to discipline Dr.
7 Pearce on these charges without giving him notice or an opportunity to be heard.

8 213. As found in the Santa Clara County Superior Court in its decision on
9 Plaintiff's writ of mandate in *Chiropractic Board v. Pearce*, the Chiropractic
10 Board Members violated Plaintiff's rights to due process by not giving him notice
11 of their intention to enact this discipline against him.

12 214. When Plaintiff protested these decisions, Chiropractic Board
13 Members raised the penalty against him without notice or an opportunity to be
14 heard.

15 215. Before Chiropractic Board Members committed this violation of
16 Plaintiff's rights, the law was well settled that Chiropractic Board Members could
17 not discipline Plaintiff without affording him notice and an opportunity to defend
18 against the charges upon which the discipline was based, could not discipline
19 him for exercising his rights of free association, and could not raise the penalty
20 against him, without notice and an opportunity to be heard because he took
21 obtained a writ of mandate for them to re-consider their decision in light of the
22 substantive and due process arguments he made in his petition for the writ. (One
23 of the arguments was that the penalty was too high, not too low.)

24 216. As a direct and proximate result of this conduct, Plaintiff suffered
25 special damages, including but not limited to, physical injury of an ulcer for which
26 he had medical care, loss of his business, loss of his livelihood, loss of economic
27 relationships, loss of income, loss of business and other economic opportunities,
28

1 damage to his business goodwill, loss of his business, loss of his reputation and
2 standing in the community, loss of ability to practice his profession, loss of his
3 license, and loss of future earning capacity in an amount according to proof.
4 Plaintiff suffered general damages in an amount according to proof.

5 217. Defendants actions were malicious, fraudulent, and oppressive.
6 Plaintiff requests punitive damages.

7 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

8 **TWENTY-FIFTH CAUSE OF ACTION FOR CONSPIRACY TO**
9 **VIOLATE CIVIL RIGHTS AGAINST ALL DEFENDANTS**

10 218. Plaintiff realleges and incorporates paragraphs one through 95, as
11 if fully set forth.

12 219. As alleged, defendants conspired to and did carry out their
13 conspiracy, for various personal reasons, in an attempt to deprive Plaintiff of his
14 livelihood, his liberty and property interest in practicing his profession and his
15 right to the equal protection under the law of not being prosecuted on baseless
16 charges or fabricated evidence; not being illegally seized and searched,
17 assaulted and battered, coerced, threatened, or intimidated; not being defamed
18 in the course of and for the purpose of being victimized by a conspiracy to be
19 prosecuted without probable cause on evidence fabricated at the behest of the
20 state; being subjected to discipline without notice or an opportunity to defend; or
21 being subjected to vindictive increase of the penalty imposed upon him in
22 response to his protesting the state's agents running amok on his rights.

23 220. As alleged, defendants overwhelmed the protections of due process
24 and fair court procedure by fraudulently concealing their conspiracy and by
25 fraudulently concealing the illegality of the seizure and search of Plaintiff in front
26 of a trier of fact until after all proceedings affected by their illegal activity were
27 terminated. Defendants circumvented the protections of due process and the
28

1 right to confront evidence presented against the accused by substituting the
2 search of Plaintiff in front of the trier of fact in *Chiropractic Board v. Pearce* for
3 evidence. Defendants compounded this denial of Plaintiff's rights by fabricating
4 the evidence utilized to create the illegal search and seizure of Plaintiff.

5 221. As alleged, when defendants' adherence to due process procedures
6 resulted in defendants' inability to revoke Plaintiff's chiropractic license for
7 committing sexual misconduct, Defendants overwhelmed the protections of due
8 process and fair court procedure by revoking Plaintiff's license for acts and
9 attitude not charged and for attitude and acts for which no discipline is allowed
10 under the law.

11 222. As alleged, defendants' conduct resulted in the appearance of a fair
12 trial when, in actuality, Plaintiff was deprived of the cornerstone of fairness in
13 trials: the ability to confront his accusers and the ability to present himself as a
14 credible witness in his own defense. This was demonstrated by the Chiropractic
15 Board finding complaining witnesses uncorroborated testimony of events long
16 past more credible than Plaintiff's records and corroborating witnesses' testimony
17 and Board's admittedly incompetent expert being found more credible than the
18 plethora of Plaintiff's experts whose competence was unchallenged.

19 223. In short, Defendants' actions reduced Plaintiff's trial to a show trial
20 of procedure in which Plaintiff's loss of his license was foreordained before trial.

21
22 224. As a direct and proximate result of defendants' conduct, Plaintiff was
23 subjected to the humiliation of being coerced by the state into acquiescing to
24 assault and battery upon his person. As a further direct and proximate result of
25 defendants' conduct plaintiff was injured in his liberty and property interests,
26 including but not limited to loss of income, his business, his right to practice his
27 profession, investment opportunity, and his future earning capacity in an amount
28

1 according to proof. As a further direct and proximate result of defendants'
2 conduct alleged herein, Plaintiff was injured in his health in an amount according
3 to proof. As a further direct and proximate result of Defendants' conduct plaintiff
4 incurred general damages in an amount according to proof.

5 225. The conduct of defendants was fraudulent, malicious and
6 oppressive. Plaintiff requests punitive damages.

7 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

8 **TWENTY-SIXTH CLAIM FOR DAMAGES FOR VIOLATION OF**
9 **42 U.S.C. 1986 BY CHIROPRACTIC BOARD MEMBERS;**
10 **BENNET; MEADOWS; AND HERSH**

11 226. Plaintiff realleges and incorporates paragraphs one through 95, as
12 if fully set forth.

13 227. Chiropractic Board Members, Bennet, Meadows, and Hersh were all
14 supervisors who were aware of the conspiracy pled in the Twenty-Fifth Claim for
15 Damages herein. By not abating the conspiracy, these defendants violated 42
16 U.S.C. 1986.

17 228. As a direct and proximate result of defendants failure to abate the
18 conspiracy, Plaintiff suffered special and general damages in an amount
19 according to proof.

20 229. Defendants' actions and inaction was fraudulent, malicious, and
21 oppressive. Accordingly, Plaintiff is entitled to punitive damages.

22 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

23 **TWENTY-SEVENTH CLAIM FOR DAMAGES FOR VIOLATION**
24 **OF 42 U.S.C. 1983 BY ROMEO, MEADOWS AND MERCER**

25 230. Plaintiff realleges and incorporates paragraph 79, 81, 82, and 83 as
26 if fully set forth.

27 231. As alleged, Defendants Meadows and Mercer solicited and obtained
28

1 fabricated evidence from Defendant Berman for use in prosecuting Plaintiff in
2 Acupuncture Board v. Pearce.

3 232. At the time these defendants engaged in this conduct, the law was
4 well settled that such conduct was a violation of 42 U.S.C. 1983.

5 233. As a direct and proximate result of defendants' actions, Plaintiff was
6 forced to defend himself against an action against his Acupuncture license. This
7 caused him to suffer special and general damages according to proof.

8 234. Defendants' actions and inaction were fraudulent, malicious, and
9 oppressive. Accordingly, Plaintiff is entitled to punitive damages.

10 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

11 **TWENTY-EIGHTH CLAIM FOR DAMAGES AGAINST BERMAN**
12 **FOR VIOLATION OF 42 U.S.C. 1983**

13 235. Plaintiff realleges and incorporates Paragraphs 81, 82, 83, 91, and
14 93, as if fully set forth.

15 236. As alleged, Berman agreed to and did fabricate evidence against
16 Plaintiff for use against Plaintiff in an accusation against Plaintiff's Acupuncture
17 License.

18 237. At the time Berman fabricated his evidence, the law was well settled
19 that such fabrication was a violation of 42 U.S.C. 1983.

20 238. As a direct and proximate result of Berman's conduct, Plaintiff was
21 forced to incur expenses to defend his ability to practice Acupuncture. As a
22 further direct and proximate result of said conduct, Plaintiff suffered special and
23 general damages in an amount according to proof.

24 239. Defendants conduct as alleged herein was fraudulent, malicious and
25 oppressive. Hence, Plaintiff is entitled to punitive damages in an amount to be
26 determined by jury.

27 Wherefore, Plaintiff prays for judgment as hereinafter set forth.
28

1 **TWENTY-NINTH CLAIM FOR DAMAGES AGAINST BERMAN,**
2 **MERCER, AND MEADOWS FOR VIOLATION OF 42 U.S.C.**
3 **1985.**

4 240. Plaintiff realleges and incorporates paragraphs 81, 82, 83, 91, and
5 93, as if fully set forth.

6 241. As alleged, said conduct constitutes a violation of 42 U.S.C. 1985.

7 242. As a direct and proximate result of the conspiracy alleged herein,
8 Plaintiff suffered special and general damages according to proof.

9 243. Defendants' actions were fraudulent, malicious, and oppressive.
10 Accordingly, Plaintiff is entitled to punitive damages.

11 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

12 **THIRTIETH CLAIM FOR DAMAGES AGAINST BERMAN FOR**
13 **MALICIOUS PROSECUTION**

14 244. Plaintiff realleges and incorporates paragraphs 81, 82, 88, 91, and
15 93, as if fully set forth.

16 245. As alleged, Berman stated within his report that he had relied heavily
17 on the Everstine's report as a valid and truthful source of information upon which
18 he based his diagnosis of Dr. Pearce. By the fall of 2001, he had been informed
19 by the Everstines and by Attorney Ed Cullen, the attorney responsible for
20 presenting the Everstine's report in the hearing on Alexander's request for
21 injunction, that the report had no intrinsic value. In addition, he was informed that
22 the Santa Clara Superior Court found the report inadequate as evidence upon
23 which to base an injunction. Yet, faced with this revelation that his examination
24 of Dr. Pearce had occurred without probable cause and his conclusions were
25 based in substantial portion on a report without intrinsic value, Berman refused
26 to re-evaluate his conclusions. Instead, he decided to lie in testimony by
27 claiming he had not considered the Everstine report in coming to his conclusions
28

1 about Dr. Pearce. Given that he had been informed that his conclusions could
2 not be supported by the Everstine report and knowing that his own testing did not
3 support his conclusions, he had been informed that his accusation that Dr.
4 Pearce was too mentally ill, and would be so for life, to safely practice his
5 profession, he persisted in participating in prosecuting Dr. Pearce. At this point,
6 Berman did not intend to assist the Acupuncture Board in evaluating Dr.
7 Pearce's fitness to practice Acupuncture, instead he was intent on violating 42
8 U.S.C. 1983 so as to assist AG defendants in covering up their misdeeds in
9 *Chiropractic Board v. Pearce* and preventing Dr. Pearce from being able to
10 recover damages for said activities.

11 246. As a direct and proximate cause of Berman's conduct, Plaintiff
12 suffered special and general damages in an amount according to proof.

13 247. Defendant's conduct was fraudulent, malicious, and oppressive.
14 Accordingly, Plaintiff is entitled to punitive damages.

15 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

16 **THIRTY-FIRST CLAIM FOR DAMAGES AGAINST HERSH FOR**
17 **VIOLATION OF 42 U.S.C. 1986.**

18 248. Plaintiff realleges and incorporates paragraphs one through 95, as
19 if fully set forth.

20 249. Defendant Hersh was Romeo's, Mercer's and Meadows' supervisor.
21 She failed to take any action to abate the conspiracy. Her failure to abate the
22 conspiracy is a violation of 42 U.S.C. 1986. Her failure to take any action to
23 abate the conspiracy was a manifestation of her callous indifference to the rights
24 of Plaintiff and those similarly situated.

25 250. As a direct and proximate cause of defendant's action and inaction,
26 Plaintiff suffered special and general damages in an amount according to proof.

27 251. Defendant's actions and inaction was malicious, and oppressive.
28

1 Accordingly, Plaintiff is entitled to punitive damages.

2 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

3 **THIRTY-SECOND CLAIM FOR DAMAGES AGAINST ALL**
4 **DEFENDANTS FOR VIOLATION OF 42 U.S.C. 1985**

5 252. Plaintiff realleges and incorporates all previous paragraphs. As
6 alleged, the defendants herein engaged in a series of agreements which
7 overlapped in membership, purpose, and in activities and which were united in
8 one common goal of destroying Plaintiff's professional life. As such, the activities
9 of all defendants named herein constituted a single agreement, purpose, and
10 course of conduct aimed at destroying Plaintiff's professional life. This was in
11 violation of 42 U.S.C. 1985.

12 253. As a direct and proximate result of the conspiracy, Plaintiff suffered
13 special and general damages in an amount according to proof.

14 254. The activities of the conspirators were fraudulent, malicious, and
15 oppressive. Hence, Plaintiff is entitled to punitive and exemplary damages in an
16 amount to be determined by the jury.

17 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

18 **THIRTY THIRD CLAIM FOR DAMAGES AGAINST BENNET**
19 **AND HERSH FOR VIOLATION OF 18 U.S.C. 1986**

20 255. Plaintiff realleges and incorporates all previous paragraphs. As
21 alleged, these defendants were supervising Deputy Attorney Generals who had
22 a duty to abate the conspiracy their subordinates, Romeo, Meadows, and Mercer
23 engaged in. Instead of abating their activities, they did nothing. Their decision
24 to not abate the wrongful activities of their subordinates was borne of their
25 callous indifference to Plaintiff's rights and those similarly situated. As a result
26 of their inaction and actions, Plaintiff suffered special and general damages
27 according to proof.

1 256. Defendants' inaction, being born of said callous indifference was
2 malicious and oppressive. Hence, Plaintiff is entitled to punitive and exemplary
3 damages in an amount to be decided by jury.

4 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

5 /

6 /

7 **THIRTY-FOURTH CLAIM FOR DAMAGES AGAINST STUART,**
8 **LOVE, LEVIN, GUY, FULTON, YONTS, YONTS & FULTON**
9 **AND ALEXANDER FOR RICO ACTIVITIES**

10 257. Plaintiff realleges and incorporates paragraphs one through 95.

11 258. As alleged, these defendants in this claim associated together to
12 carry out a plan to defraud Stuarts' workers' compensation carrier and to cover
13 up their fraud by causing Plaintiff to be prosecuted for crimes and allegations he
14 did not commit. They utilized the mails to cover up the insurance fraud of Stuart.
15 For example, on October 04, 1991, to carry out their fraud, Guy caused a letter
16 to be sent through the United States mails to the California State Board of
17 Chiropractic Examiners falsely accusing him of patient molestation and battery.
18 On June 05, and 12, 1995, Alexander caused to be sent through the United
19 States mails, letters which accused Plaintiff of these same crimes plus
20 obstructing justice in *Machado v. Pearce*. Said defendants also contemplated
21 and expected that the mailings and other activities they committed in their quest
22 to have Plaintiff prosecuted by the Chiropractic Board would result in use of the
23 mails by the Chiropractic Board. Said defendants also utilized the mails on
24 dozens of occasions to send bills for services utilized by Stuart in the course of
25 making her false claims to her workers' compensation carrier. Said defendants
26 contemplated and expected the carrier to utilize the mails to pay for the bills for
27 services. These activities constitute a pattern and practice of utilizing the mails
28

1 to commit fraud, a violation of 18 U.S.C. 1341 by an association in fact.

2 259. As alleged, this associations' enterprise involving mail fraud is
3 prohibited by 18 U.S.C. (b),(c), and (d). The enterprise and pattern of fraud
4 caused injury to Plaintiff's business and property in an amount according to proof.
5 Thus, Plaintiff brings this complaint under 18 U.S.C. 1964(c) for recovery of
6 treble his damages, attorneys fees associated with this lawsuit and costs of this
7 lawsuit.

8 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

9 **THIRTY-FIFTH CLAIM FOR DAMAGES AGAINST SHARP,**
10 **SULLIVAN, AND CHIROPRACTIC BOARD OFFICERS FOR**
11 **DAMAGES FROM RICO ACTIVITIES**

12 260. Plaintiff realleges and incorporates paragraphs one through 69, and
13 88 through 90 herein as if fully set forth.

14 261. As alleged, said defendants entered into an agreement to damage
15 plaintiff in his business, his property interest in maintaining his right to practice
16 his profession, and his property and carried out said agreement by soliciting
17 fabricated evidence against Plaintiff by defendant Sullivan. On March 29, 1992,
18 defendant Sharp utilized the United States mails to send Sullivan materials upon
19 which to base his fabricated evidence. March 29, 1992, Sullivan utilized the
20 United States Mails to Board officers his fabricated evidence. Thereafter, the
21 board officers and Sullivan utilized the United States mails to pay Sullivan for his
22 time in creating his fabricated evidence. Board members contemplated and
23 expected the use of the mails by both themselves and Plaintiff in the course of
24 utilizing their fabricated evidence against Plaintiff. These activities constitute a
25 pattern of use of the mails to defraud Plaintiff of his property interests and were
26 in violation of 18 U.S.C. 1341. Said defendants are prohibited from participating
27 in such activity by 18 U.S.C. 1962(b)(c) and (d).

1 262. As alleged, Plaintiff was injured in his property interests, his business
2 and his property. Thus, Plaintiff brings this complaint under 18 U.S.C. 1964(c)
3 for recovery of treble his damages, attorneys fees associated with this lawsuit
4 and costs of this lawsuit.

5 Wherefore, Plaintiff prays for judgment as hereinafter set forth.

6 /

7 **THIRTY-SIXTH CLAIM FOR DAMAGES AGAINST BOTHA AND**
8 **ALEXANDER FOR DAMAGES FROM RICO ACTIVITIES**

9 263. Plaintiff realleges and incorporates paragraphs one through 95,
10 herein as if fully set forth.

11 264. As alleged, Alexander hired Botha to assist him in defending against
12 Plaintiff's lawsuits. Alexander and Botha agreed to conduct their defense by
13 suborning perjury from Thomas Hogan and by relying upon perjury committed by
14 Alexander in *Chiropractic Board v. Pearce* and by Botha in defending against
15 Plaintiff's lawsuits against Alexander. As alleged in paragraph 68, Alexander did
16 suborn Thomas Hogan to testify that he had settled Alexander's lawsuit against
17 Plaintiff with Plaintiff's knowledge, consent, and authority. On April 08, 1999,
18 Botha caused a copy of Hogan's perjured affidavit to be delivered through the
19 United States Mails to Plaintiff and others. As alleged in paragraphs 63, and 64
20 Alexander did commit perjury before the Chiropractic Board in *Chiropractic Board*
21 *v. Pearce*. On August 26, 1999, Botha committed perjury in *Pearce v. Machado*
22 and *Pearce v. Alexander* by testifying to having spent twice the amount of
23 money on costs than actually spent in defending each case. On August 27,
24 1999, Botha caused her perjured affidavit to be delivered through the United
25 States mails to Plaintiff. On or after October 18, 1999, Botha committed further
26 perjury in *Machado v. Pearce* by claiming, under oath that Plaintiff had failed to
27 follow a court order to pay sanctions. On October 21, 1999, Botha caused her
28

1 perjured affidavit to be delivered by mail to Plaintiff.

2 265. As alleged in paragraph 70, on September 02, 1999, Botha
3 telephoned Plaintiff and threatened to arrange for him to be physically injured if
4 he exposed any of her perjuries in open court. To cover up this threat and their
5 perjuries, Botha and Alexander arranged for two psychologists to create a bogus
6 report claiming Plaintiff was delusional, paranoid, and narcissistic. They then
7 utilized this report to obtain a TRO against plaintiff. As alleged in paragraph 75
8 the threat and bogus TRO did succeed in deterring Plaintiff from exposing
9 Botha's perjury successfully utilized in a motion to deprive Plaintiff of his ability
10 to present evidence in his *Pearce v. Machado* lawsuit against Alexander.

11 266. Alexander then utilized the existence of the bogus report and TRO,
12 in violation of a court order, to initiate investigation and prosecution of Plaintiff by
13 the Acupuncture Board. Then, Alexander utilized the investigation and
14 prosecution to coerce and intimidate Plaintiff into accepting an unfavorable
15 settlement of his lawsuits against Alexander.

16 267. As alleged herein, Botha's conduct was in violation of 18 U.S.C.
17 sections 1512(b) and 1513(b) and 18 U.S.C. 1341. As alleged, Plaintiff was
18 engaged in interstate commerce at the time these offenses against him occurred.
19 Thus, Botha's conduct violated 18 U.S.C. 1962(c) and (d). As a result of these
20 activities, Plaintiff was injured in his business, his property interest to practice his
21 profession and his property. Accordingly, he is authorized by 18 U.S.C. 1964(c)
22 to bring this claim for relief against Botha and Alexander and to collect treble his
23 damages, his attorneys fees associated with bringing this suit and costs of suit..

24 268. Wherefore, Plaintiff prays for relief as hereinafter set forth.

25 **PRAYER**

26 Plaintiff prays for judgment as follows:

27 A. Against all tortfeasors jointly and severally for all claims for damages
28

arising from malicious prosecution:

a Special damages for:

- i. Attorneys fees and costs spent on defending against the malicious prosecutions;
- ii. Costs and interests associated with financing attorneys fees and costs on defending against the malicious prosecutions
- iii. Loss of business income, loss of business, loss of property, loss of property interests, loss of license
- iv. Medical expenses for physical injuries
- v. Medical expenses for treatment for stress
- vi. Loss of economic relationships and advantages;
- vii. Loss of investment and economic opportunities;
- viii. Loss of business goodwill;
- ix. Loss of ability to publish research;
- x. Loss of teaching income;
- xi. Time unpaid due to having to defend against the tortfeasors' actions; and
- xii. Such other special damages as are proved at trial

b General damages for

- i. Humiliation, embarrassment, mortification, fright,
- ii. Loss of reputation, standing in the community;
- iii. Loss of enjoyment;
- iv. Interpersonal stress;
- v. Stress; and
- vi. Such other damages as determined by a jury

B. For all claims for damages for violation of Plaintiff's Civil Rights against all tortfeasors jointly and severally:

- 1 a Special damages for:
 - 2 i. Attorneys fees and costs spent on defending against the
 - 3 actions of tortfeasors;
 - 4 ii. Costs and interests associated with financing attorneys fees
 - 5 and costs on defending against the malicious prosecutions
 - 6 iii. Loss of business income, loss of business, loss of property,
 - 7 loss of property interests, loss of license
 - 8 iv. Medical expenses for physical injuries
 - 9 v. Medical expenses for treatment for stress
 - 10 vi. Loss of economic relationships and advantages;
 - 11 vii. Loss of investment and economic opportunities;
 - 12 viii. Loss of business goodwill;
 - 13 ix. Loss of ability to publish research;
 - 14 x. Loss of teaching income;
 - 15 xi. Time unpaid due to having to defend against the tortfeasors'
 - 16 actions; and
 - 17 xii. Such other special damages as are proved at trial
- 18 b General damages for
 - 19 i. Humiliation, embarrassment, mortification, fright,
 - 20 ii. Loss of reputation, standing in the community;
 - 21 iii. Loss of enjoyment;
 - 22 iv. Interpersonal stress;
 - 23 v. Stress; and
 - 24 vi. Such other damages as determined by a jury
- 25 c Attorneys fees in this action as determined by the court
- 26 C For all claims for damages arising from violation of the California Statutes
- 27 jointly and severally against all tortfeasors:
- 28

- 1 a Special damages for:
 - 2 i. Attorneys fees and costs spent on defending against the
 - 3 actions for the tortfeasors;
 - 4 ii. Costs and interests associated with financing attorneys fees
 - 5 and costs on defending against the malicious prosecutions
 - 6 iii. Loss of business income, loss of business, loss of property,
 - 7 loss of property interests, loss of license
 - 8 iv. Medical expenses for physical injuries
 - 9 v. Medical expenses for treatment for stress
 - 10 vi. Loss of economic relationships and advantages;
 - 11 vii. Loss of investment and economic opportunities;
 - 12 viii. Loss of business goodwill;
 - 13 ix. Loss of ability to publish research;
 - 14 x. Loss of teaching income;
 - 15 xi. Time unpaid due to having to defend against the tortfeasors'
 - 16 actions; and
 - 17 xii. Such other special damages as are proved at trial
- 18 b General damages for
 - 19 i. Humiliation, embarrassment, mortification, fright,
 - 20 ii. Loss of reputation, standing in the community;
 - 21 iii. Loss of enjoyment;
 - 22 iv. Interpersonal stress;
 - 23 v. Stress; and
 - 24 vi. Such other damages as determined by a jury
- 25 c Attorneys fees in this action as determined by the court
- 26 d Civil Fines against each tortfeasor as authorized by statute
- 27 D For all claims for damages for assault and battery, against all tortfeasors
- 28

- 1 jointly and severally, special and general damages according to proof
- 2 E For all claims for damages for RICO violations, against all tortfeasors jointly
- 3 and severally,:
- 4 a All damages to plaintiff's business, property, and property interests
- 5 according to proof to a jury, trebled;
- 6 b Attorneys fees and costs of suit as determined by the court;
- 7 F For all claims for damages not arising from RICO violations, against all
- 8 tortfeasors jointly and severally: Punitive and exemplary damages as
- 9 determined by the jury or, as the cause requires, by the court;
- 10 G For all claims for damages against all tortfeasors jointly and severally:
- 11 a Costs of Suit
- 12 b Such other damages as the jury or as the cause requires, the court,
- 13 deems just and proper in the premises.
- 14 c Such other relief as the court deems just and proper in the premises
- 15 Plaintiff estimates that special damages exceed \$6,000,000.00 before
- 16 trebling.

17 **DEMAND FOR JURY TRIAL**

18 Plaintiff demands a trial by jury.

19 Dated: August 19, 2002

20 _____
M. VAN SMITH
Attorney for Plaintiff

21 **VERIFICATION OF COMPLAINT FOR DAMAGES**

22 I, Mitchell J. Pearce, D.C., M.S., L.Ac. certify under penalty of perjury

23 under the laws of the United States of America that I am the plaintiff in this action,

24 that I have read this complaint, and that, to the best of my knowledge,

25 information, and belief, the allegations are true and correct, and that this

26 complaint is not interposed for delay or other improper purposes.

27

28

Executed at San Jose, California on August 19, 2002.

Mitchell J. Pearce, D.C., M.S., L.Ac.